2677 North Main Street | Suite 1050
Santa Ana, CA 92705
Phone: 714.640.5100 | **Fax:** 714.640.5139

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY

REGULAR MEETING AGENDA

Wednesday, March 12, 2025
8:15 a.m.

County Administrative North (CAN)
First Floor Multipurpose Room 101
400 W. Civic Center Drive, Santa Ana, CA 92701
Members of the public may access the audio live-streamed meeting at
https://youtube.com/live/9Jps7is5nYg?feature=share

Any member of the public may request to speak on any agenda item at the time the Commission is considering the item.

1. **CALL THE MEETING TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION**
   (Communications received after agenda distribution for agendized items.)

5. **PUBLIC COMMENT**
   This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken by the Commission on off-agenda items unless authorized by law.

6. **CONSENT CALENDAR**

   a.) February 19, 2025 – Regular Commission Meeting Minutes
   The Commission will consider approval of the February 19, 2025 meeting minutes.

7. PUBLIC HEARING

a.) Fiscal Year 2025-26 OC LAFCO Proposed Budget and Fee Schedule
The Commission will consider the adoption of the Proposed FY 2025-26 OC LAFCO Budget and a resolution approving the agency's fee schedule.

b.) Focused Municipal Service Review and Sphere of Influence Update for Orange County Water District (MSR 23-06 and SOI 23-06) and Feasibility Analysis of the Potential Consolidation of the Orange County Water District and Municipal Water District of Orange County
The Commission will receive the Focused Municipal Service Review and Sphere of Influence Update for the Orage County Water District prepared in accordance with Government Code Sections 56425 and 56430 and consider adoption of the statement of determinations. As the lead agency, the Commission will consider the approval of the Notice of Exemption prepared for the Focused MSR and SOI in compliance with the California Environmental Quality Act (CEQA).

8. COMMISSION DISCUSSION AND ACTION

a.) Personnel Policies and Procedures
The Commission will consider proposed amendments to the Personnel Policies and Procedures.

9. COMMISSIONER COMMENTS

This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken except to place the item on a future agenda if approved by the Commission majority.

10. EXECUTIVE OFFICER'S REPORT

Executive Officer's announcement of upcoming events and brief report on activities of the Executive Officer since the last meeting.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

a.) 2025 Strategic Planning Workshop
The Commission will hold its Strategic Planning Workshop on Friday, April 4, 2025, 9:00 a.m. to 1:00 p.m., at the Santa Ana Police Department, Community Room, 60 Civic Center Plaza, Santa Ana, CA 92701. ***There will be no regular meeting of the Commission during the month of April.***

12. CLOSED SESSION

No closed session items scheduled.

13. ADJOURNMENT OF REGULAR COMMISSION MEETING

PUBLIC PARTICIPATION:

The Local Agency Formation Commission of Orange County welcomes your participation. The public may share general comments or comments on agenda items through the following options:

1) **In-person** comments may be provided during the general comment period on off-agenda items and during the hearing of a specific agenda item. In accordance with the OC LAFCO guidelines, each speaker's comments may not exceed three (3) minutes for the respective item. If you have documents for the Commission, please bring 15 copies and submit to the Commission Clerk for distribution.

2) **Audio Live Streaming:** The public may listen to the meeting live on YouTube using the link provided on the website homepage (www.oclafco.org). However, LAFCO cannot guarantee that the public's access will be uninterrupted, and technical difficulties may occur from time to time. The meeting will continue despite technical difficulties for participants using audio live streaming unless otherwise prohibited by State open meeting laws.

3) **Written** general comments or comments on specific agenda items may be submitted by email to the Commission Clerk at ccarter-benjamin@oclafco.org. Comments received no less than twenty-four (24) hours prior to the regular meeting will be distributed to the Commission and included in the record.

Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the OC LAFCO website at www.oclafco.org.

State law requires that a participant in an OC LAFCO proceeding who has a financial interest in a decision and who has made a campaign contribution of more than $250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.

AMERICANS WITH DISABILITIES ACT (ADA)

All regular meeting agendas and associated reports are available at www.oclafco.org. Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations shall be made with OC LAFCO staff at (714) 640-5100 at least three business days prior to the respective meeting.

2025 MEETING AND EVENTS CALENDAR

Approved November 14 , 2024

2025

ORANGE COUNTY LAFCO

January

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OC LAFCO Regular Meeting (***begins at 8:15 a.m.***)
Location: County Administrative North, First Floor Multipurpose Room 101, 400 W. Civic Center Dr., Santa Ana, CA 92701.

No Scheduled Regular Meeting.

Strategic Planning Workshop *(9:00 a.m. to 1:00 p.m.)*
Location: To be determined.

Office closure due to legal holidays and flexible work schedule.

2025 CALAFCO Annual Conference - October 22 - 24, San Diego, CA.

Agenda materials available at http://oclafco.org.

DRAFT MINUTES

OC LAFCO REGULAR MEETING

Wednesday, February 19, 2025
8:15 a.m.

County Administrative North (CAN)
First Floor Multipurpose Room 101
400 W. Civic Center Drive, Santa Ana, CA 92701
Members of the public may access the audio live-streamed meeting at:
https://youtube.com/live/W0_ZlVnJ0_0?feature=share

1. CALL TO ORDER

Vice Chair Bucknum called the meeting of the Local Agency Formation Commission of Orange County (OC LAFCO) to order at 8:15 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Moore led the Pledge of Allegiance.

3. ROLL CALL

The following Commissioners were present:

City Members
Wendy Bucknum **(Vice Chair)**
Peggy Huang
Carol Moore **(Alt.)**

Public Member
Derek J. McGregor

Special District Members
Douglass Davert
Kathryn Freshley **(Alt.)**

The following staff members and general counsel were present:

- Assistant Executive Officer Luis Tapia
- Policy Analyst I Aimee Diaz
- Commission Clerk Cheryl Carter-Benjamin
- General Counsel Scott Smith

4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION (Received After Agenda Distribution)

The Commission Clerk noted that no supplemental communication was received.

5. PUBLIC COMMENT

Vice Chair Bucknum requested public comments on any non-agenda items. The Commission Clerk noted that there were no requests to speak from the public.

Vice Chair Bucknum closed the hearing of public comments.

6. CONSENT CALENDAR

Vice Chair Bucknum called for requests to pull the consent calendar item for discussion. There were no requests from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Commissioner Davert** motioned for approval of the consent calendar, and **Commissioner McGregor** seconded the motion.

6a. – January 8, 2025 - Regular Commission Meeting Minutes

MOTION:	**Approve Consent Calendar. (Douglass Davert)**
SECOND:	**Derek J. McGregor**
FOR:	**Douglass Davert, Derek J. McGregor, Kathryn Freshley, Peggy Huang**
AGAINST:	**None**
ABSTAIN:	**Wendy Bucknum**

MOTION PASSED: 4-0-1.

7. PUBLIC HEARING

Vice Chair Bucknum noted that there were no public hearing items scheduled for consideration by the Commission.

8. COMMISSION DISCUSSION AND ACTION

8a. – Policy for Indemnification of OC LAFCO by Applicants
Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration and noted that General Counsel was available to answer questions.

Vice Chair Bucknum called for Commission discussion and public comments. There was no noted discussion from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item.

Vice Chair Bucknum called for a motion on the item. **Commissioner Davert** motioned to approve the staff recommended action, and **Commissioner Huang** seconded the motion.

MOTION:	**Adopt the Policy for the Indemnification of OC LAFCO by Applicants, as amended. (Douglass Davert)**
SECOND:	**Peggy Huang**
FOR:	**Douglass Davert, Peggy Huang, Kathryn Freshley, Derek J. McGregor, Wendy Bucknum**
AGAINST:	**None**
ABSTAIN:	**None**

MOTION PASSED: 5-0.

<u>**8b. – Records Retention and Destruction Policy**</u>
Commission Clerk Cheryl Carter-Benjamin presented the staff report and recommended action for Commission consideration and noted that General Counsel was available to answer questions.

Vice Chair Bucknum called for Commission discussion and public comments. Commissioners made general comments, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Vice Chair Bucknum** called for a motion on the item. **Commissioner Davert** motioned to approve the staff recommended action, and **Commissioner McGregor** seconded the motion.

MOTION:	**Adopt the Records Retention and Destruction Policy, as amended. (Douglass Davert)**
SECOND:	**Derek J. McGregor**
FOR:	**Douglass Davert, Derek J. McGregor, Kathryn Freshley, Peggy Huang, Wendy Bucknum**
AGAINST:	**None**
ABSTAIN:	**None**

MOTION PASSED: 5-0.

<u>**8c. – California Association of Local Agency Formation Commissions Membership Status**</u>
Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration and **Commissioner McGregor** provided additional comments.

Vice Chair Bucknum called for Commission discussion and public comments. The Commission Clerk noted that there were no requests from the public to speak on the item. Commissioners made general comments and asked clarifying questions regarding the current resources allocated to CALAFCO, the redirection of resources, and whether the details of redirecting resources would be presented to the Commission at a future meeting.

The Assistant Executive Officer responded that the Commission's budget for CALAFCO activities is $30K and noted that a portion of the funds would be redirected for educational and legislative opportunities with the Southern Region LAFCOs.

Commissioner McGregor provided additional comments on recent discussions held during the CALAFCO Board meetings and actions taken by the Board. He noted that CALAFCO has not met its primary purpose, which is to provide its membership with statewide legislative support and educational opportunities through workshops and conferences. He also noted that the Board received multiple concerns from several LAFCOs, and no adequate decisions were made to amend the concerns.

Vice Chair Bucknum called for a motion on the item. **Commissioner Davert** motioned to approve the staff recommended action, and **Commissioner McGregor** seconded the motion.

MOTION:	**Direct staff not to renew OC LAFCO's membership with CALAFCO for Fiscal Year 2025-26 and send a letter to notify the CALAFCO Board of the Commission's action not to renew its membership with CALAFCO. (Douglass Davert)**
SECOND:	**Derek J. McGregor**
FOR:	**Douglass Davert, Derek J. McGregor, Kathryn Freshley, Peggy Huang, Wendy Bucknum**
AGAINST:	**None**
ABSTAIN:	**None**

MOTION PASSED: 5-0.

<u>8d. – LAFCO and Water System Consolidation Report Update</u>
Policy Analyst Aimee Diaz presented the staff report and recommended action for Commission consideration.

Vice Chair Bucknum called for Commission discussion and public comments. Commissioners made general comments and asked clarifying questions on how the proposed legislative effort would apply to Orange County and requested that staff provide updates on new developments related to the item during future meetings. The Commission Clerk noted the public speaker requesting to address the Commission on the item.

Heather Baez, from the Municipal Water District of Orange County, noted that the concept of clean drinking water is a priority for all water agencies. She asked clarifying questions on the applicability of the legislative effort described in the report to Orange County. At the request of the Commission, Mr. Tapia noted that the reference to small water systems in the staff report would apply to existing private water mutuals in the County.

Vice Chair Bucknum closed public comments, called for any additional discussion by the Commission and noted this is a receive and file report and requires no action by the Commission.

9. COMMISSIONER COMMENTS

There were no general comments from Commissioners.

10. EXECUTIVE OFFICER'S REPORT

The Assistant Executive Officer noted that there were no additional items to report.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

Vice Chair Bucknum noted that there were no informational items or announcements.

12. CLOSED SESSION

Vice Chair Bucknum and General Counsel Scott Smith noted that no closed session items scheduled for discussion by the Commission.

13. ADJOURNMENT OF THE REGULAR COMMISSION MEETING

Vice Chair Bucknum adjourned the Regular Commission Meeting at 9:00 a.m. to March 12, 2025.

Wendy Bucknum, Vice Chair
Orange County Local Agency Formation Commission

ATTEST:

By: ________________________________
Cheryl Carter-Benjamin
Commission Clerk

ORANGE COUNTY LAFCO

2677 North Main Street | Suite 1050
Santa Ana, CA 92705
Phone: 714.640.5100 | **Fax:** 714.640.5139

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglass Davert
Special District Member

James Fisler
Special District Member

Peggy Huang
City Member

Derek J. McGregor
Public Member

VACANT
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

VACANT
County Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

MEETING DATE: March 12, 2025

7a | Public Hearing

TO: Local Agency Formation Commission of Orange County

FROM: Assistant Executive Officer
Accountant

SUBJECT: Proposed Fiscal Year 2025-26 OC LAFCO Budget and Fee Schedule

BACKGROUND

The State Government Code Section 56381(a) requires the Commission to hold a public hearing to adopt a proposed annual budget. The proposed FY 2025-26 budget is presented in line-item detail and referenced as **Attachment 1** for Commission review and consideration.

In February, staff met with the Commission's Executive Committee to discuss and review the proposed budget. In accordance with the Commission's Bylaws, the Executive Committee is comprised of the Chair (Donald Wagner), Vice Chair (Wendy Bucknum) and Immediate Past Chair (Douglass Davert) and responsible for reviewing the proposed agency budget and serving in an advisory role on this matter to the full Commission. Upon approval by the Commission, the proposed budget will be distributed for review and comment to the Board of Supervisors, the cities, and the independent special districts. Subsequently, the final budget, together with any submitted comments and changes, if applicable, will be considered by the Commission at a second public hearing during the May 14, 2025 regular meeting.

Fee Schedule Resolution

The OC LAFCO Fee Schedule, originally established in 1995, is structured to ensure that the agency is recovering actual costs associated with processing an application. The Fee Schedule includes application processing fees and charges and reflects the current rate for staff and legal counsel direct costs. There are no changes to the fee schedule being proposed, and recommended actions include adopting the Fee Schedule Resolution (***Attachment 3***) for charges that would be effective July 1, 2025.

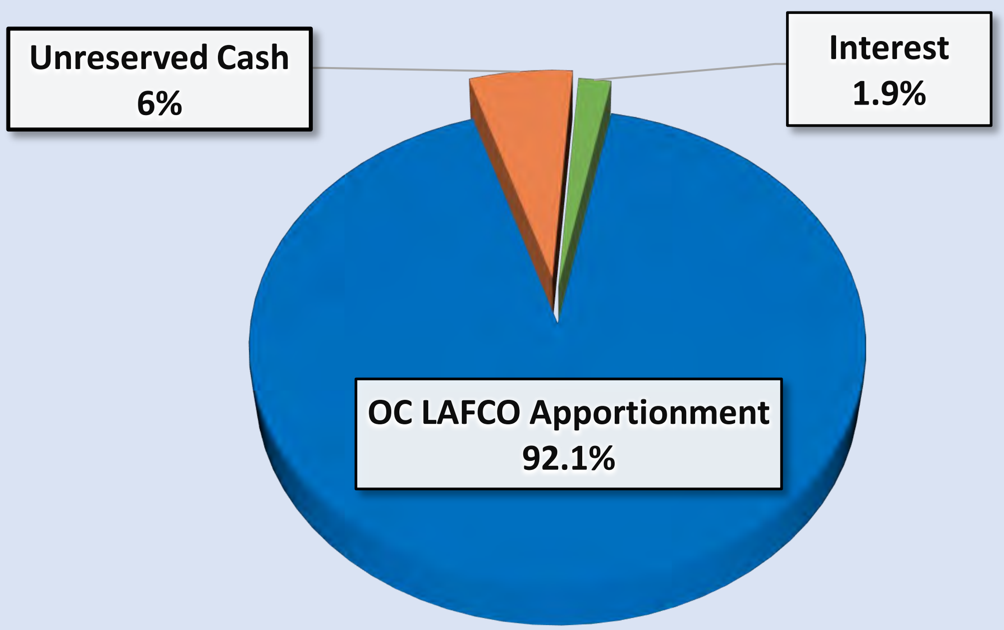
FY 2025-26 OC LAFCO PROPOSED BUDGET

The proposed FY 2025-26 budget is balanced; the expected expenditures are funded by the projected ongoing revenues with a drawdown of unreserved cash. The proposed budget totals $1,837,990, resulting in an overall decrease of 1.2 percent from the FY 2024-25 budget. The following provides a description and discussion of the revenues, expenditures and reserves contained in the FY 2025-26 proposed budget.

REVENUES

Revenues in the proposed budget for FY 2025-26 total $1,837,990 and include three categories: (1) OC LAFCO apportionment (funded by the County, cities, and independent special districts in accordance with Government Code Section 56381), (2) Interest, and (3) Unreserved Cash. As depicted in *Figure 1,* the OC LAFCO apportionment constitutes approximately 92.1 percent of the proposed revenues, with the remaining revenues attributable at six percent to the unreserved cash, and 1.9 percent expected from interest revenue.

Figure 1: Proposed FY 2025-26 OC LAFCO Revenues

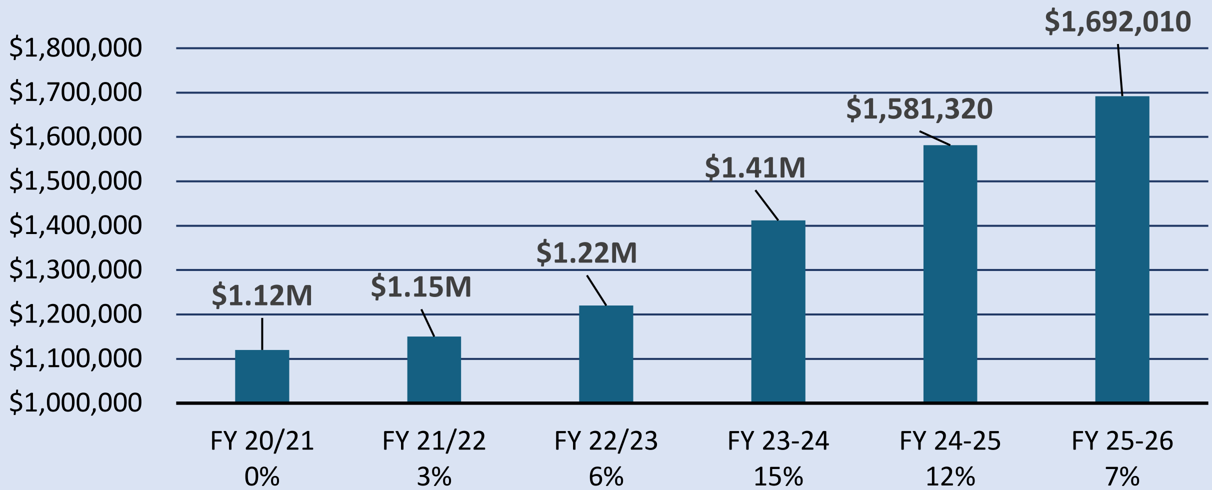


(1) *<u>OC LAFCO Apportionment</u>*

As presented in Figure 1, the agency's apportionment is the primary revenue source for OC LAFCO. Funded in three parts, the total apportionment for FY 2025-26 of $1,692,010, to be collected from the County, cities, and independent special districts, reflects an overall increase of seven percent ($110,690) from the FY 2024-25 budget. Initially, the apportionment is attributed at one-third to the County, cities, and independent special districts. Subsequently, the individual amount due from each city and independent special district is calculated by the County Auditor-Controller using the formulas adopted by the City Selection Committee and the Independent Special District Selection Committee, respectively. The individual apportionment for the cities and special districts for FY 2025-26 are delineated in ***Attachment 1B and 1C***.

For many prior budget cycles, the apportionment paid by the local agencies experienced zero to 15 percent increases through the use of the agency's unreserved cash, as shown in *Figure 2* below. As the agency's unreserved cash continues to decrease to Commission-approved reserve policy levels, the funding apportionment is expected to experience increases in order to fully fund the OC LAFCO budget.

Figure 2: OC LAFCO Apportionment - FYs 2020-21 - 2025-26

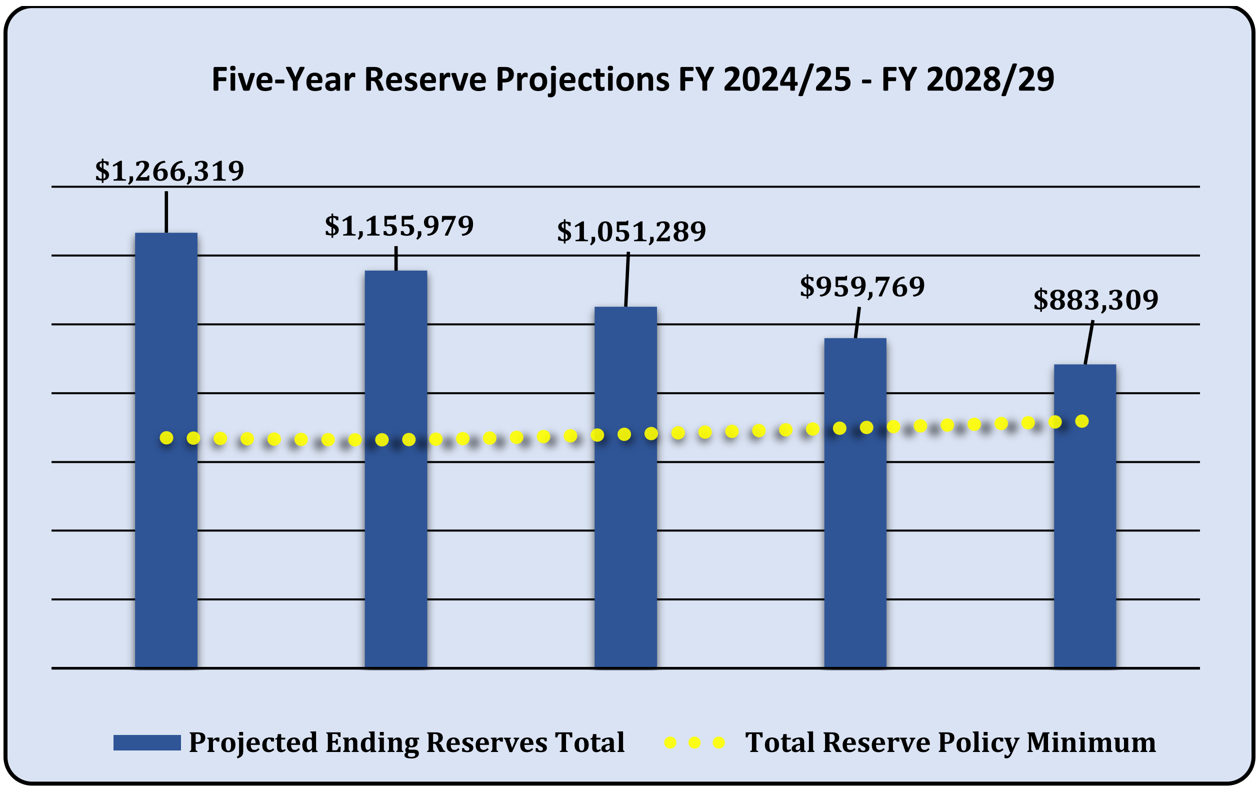


(***2) Interest***

This revenue category includes interest earned from the agency's savings account, payroll account and one investment account – the Local Agency Investment Fund (LAIF). Previously, OC LAFCO held an additional investment account (Orange County Fund) with the Office of the Treasurer-Tax Collector. However, as of February 27, 2025, staff was notified that the account would not be offered to OC LAFCO and the funds would be returned. Staff anticipates transferring the funds to the agency's LAIF account. Since the Commission receives an influx of revenues at the beginning of each fiscal year from funding agencies, the apportionment will be deposited into the accounts to cover the agency's expenses. Throughout the fiscal year, OC LAFCO staff, in consultation with the agency's independent accounting staff, withdraw funds from the accounts to cover the agency's operational expenses. Given the current market rates, the proposed FY 2025-26 budget projects that interest earned on the agency's investment account will generate $35,640 or approximately 1.9 percent of the annual revenue.

(3) *Unreserved Cash*

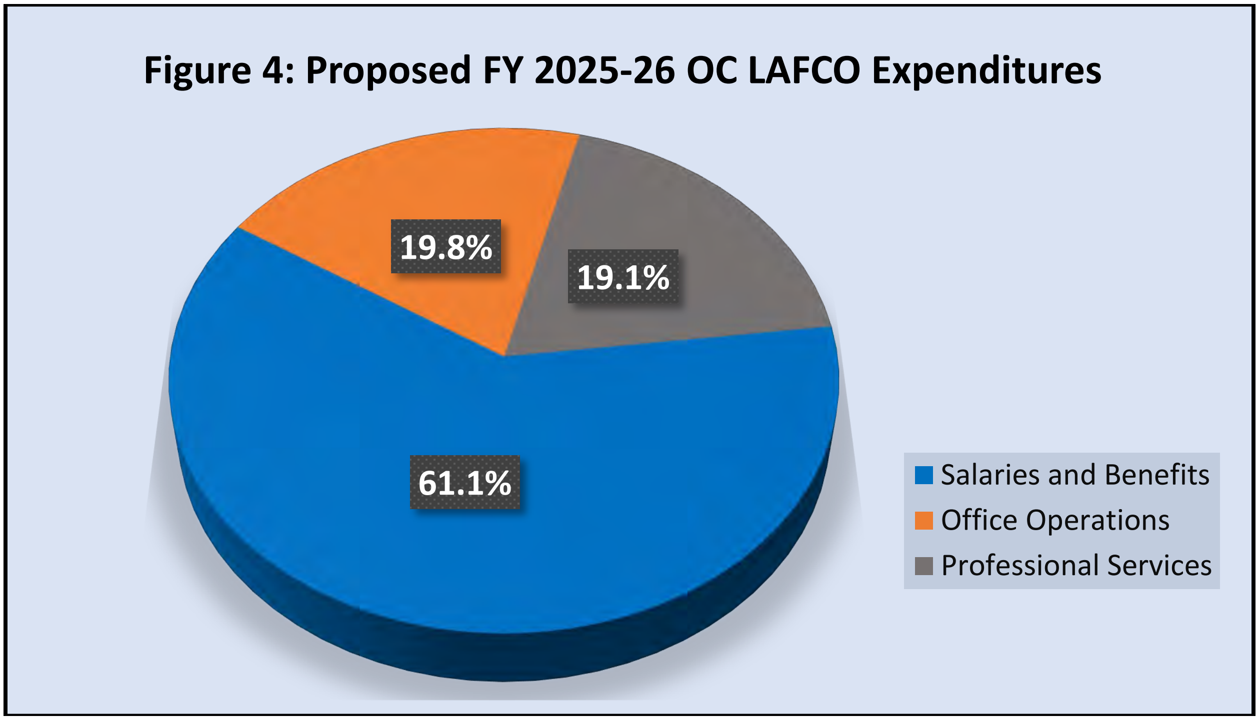
The OC LAFCO reserve policy specifies minimum balances of $100,000 for contingency reserves, $75,000 for litigation reserves, and $300,000 for unfunded liability reserves. Additionally, the Commission's policy mandates that three months of operational expenses be maintained in the reserve account, which for FY 2025-26, amount to $459,498. Unreserved cash is any balance available above the minimum specified in the reserve policy. The proposed FY 2025-26 budget revenue assumptions include $110,340 from the unreserved cash, which represents approximately six percent of the total revenues. As already stated, over past fiscal cycles, it has been the practice of the Commission to use the unreserved cash as part of the revenue assumptions until the agency reaches reserve levels delineated in the OC LAFCO reserve policy. As represented in *Figure 3*, the reserve levels are approaching the agency's reserve level by FY 2028-29.



EXPENDITURES

The proposed budget expenditures reflect the resources necessary to support the agency's operations and effectively manage the mandated projects that are not supported by applicant fees, such as preparing updates of agencies' sphere of influence, conducting municipal service reviews, and the Unincorporated Areas Program.

The proposed budget includes adjustments to specific expenditure categories based on the national Consumer Price Index (CPI), past trending, actual expenditures and the budget instructions from the County for benefit costs. The Commission expenses are described in three categories: (1) Salaries and Benefits, (2) Office Operations, and (3) Professional Services. The percentage of each category is depicted in *Figure 4* and described briefly in the following sections.



(1) Salaries & Benefits

The proposed FY 2025-26 budget for salaries and benefits for five full-time professional staff and any temporary or seasonal staff total $1,123,230, which is an overall decrease of 0.7 percent from the budgeted amount in the current fiscal year. In addition to benefits costs, the projections for this budget line item include a Cost-of-Living Adjustment (COLA) of four percent and projected merit adjustments of up to two percent. Assumptions for employee benefits (health, dental, life and disability insurance, and retiree health) are based on information provided by the County of Orange, which provides these benefits to OC LAFCO employees through a contractual agreement.

In accordance with best budgeting practices, the proposed budget provides for fully funding all staff positions. However, when personnel or other costs are associated with a project application, those costs are tracked in a special fund and reimbursed through the fees collected from the applicant. An accounting of the fees collected, personnel or other costs applied, and the balance remaining in these special funds are provided quarterly and annually to the Commission in the financial reports and the audited financial statements, respectively. Any adjustments in staff costs to the General Fund generated by the application of costs to a special project fund will effectively result in a reduction in the amount that will be drawn down from the unreserved cash at the end of the fiscal year. It is expected in the coming fiscal year that staff costs attributed to application fees will decrease in comparison to recent prior years based on anticipated applications.

(2) *Office Operations & Supplies*
Overall, the Commission operations reflect prudent management of agency expenses. The following provides general discussion of line items experiencing changes in appropriations from the current year budget:

- **Auditing and Accounting (line item 5600)**
  This line item includes funding for the agency's bookkeeping, accounting, and auditing services. OC LAFCO audited financial statements are prepared by an independent auditor. The increase in funding is in accordance with the Commission's approval in January 2025 of an increase to the auditor's contract.

- **Insurance (line Item 5250)**
  This line item includes funding for insurance coverage. OC LAFCO contracts with the County and joint powers authority for General Liability, Crime, Property, and Worker's Compensation. The proposed increase is attributed to the recent increase in the insurance premiums from the county and joint powers authority.

- **Educational and Legislative Partnerships (line item 5740)**
  During the February meeting, the Commission directed staff not to renew its membership with CALAFCO for fiscal year 2025-26. Staff noted that some of the resources previously allocated to CALAFCO would be redirected to other efforts. This line item includes funding associated with educational and legislative partnerships that will be done in collaboration with southern region LAFCOs, including educational presentations on LAFCO-related topics and tracking legislation that impacts LAFCOs. The line item will also support funding for registration costs to attend workshops, other business-related meetings, and activities.

(3) *Professional*
The Commission's staff performs the majority of the administrative and project-related work; however, the agency continues to utilize professional services for certain ongoing and project-related support. Ongoing administrative expenses for this line item include the Commission's accountant, general counsel, auditor and human resources support. The FY 2025-26 proposed budget allocation for this category includes the following: legal services ($60,000); audit and accounting services ($60,900), and human resources ($30,000). Project-related professional services include the ongoing evolvement of the fiscal indicators web-based program, preparation of the fourth cycle municipal service reviews and other studies, reports and services as required. The proposed allocation for that line item is $200,000.

OC LAFCO THREE-YEAR PROJECTIONS

The three-year projections are intended to anticipate future changes to the OC LAFCO budget. Additionally, the projections provide the funding agencies with budget projections beyond a single fiscal year. The three-year budgetary projections provided in ***Attachment 2*** indicate potential apportionment increases ranging between five and seven percent. The projections use the FY 2025-26 proposed budget as a baseline with personnel expenditures increased annually by the CPI and operational expenditures adjusted annually by factors such as current trends, contractual obligations for office and equipment leases, or the CPI. The projections reflect a transitional decrease of the use of the agency's unreversed cash to the OC LAFCO apportionment and interest revenue representing the agency's sole revenue resources. The projections for each respective fiscal year are subject to change and are used for trending purposes only.

RECOMMENDED ACTIONS

Staff Recommends the Commission:

1. Adopt the Proposed FY 2025-26 Budget and direct the Executive Officer to distribute the document for review and comment to the Board of Supervisors, cities, and independent special districts.

2. Direct staff to schedule a public hearing, per Government Code Section 56381, for consideration and adoption of the Final FY 2025-26 OC LAFCO Budget at the May 14, 2025 regular meeting.

3. Adopt OC LAFCO Resolution No. CP 25-01 approving the OC LAFCO Fee Schedule, effective July 1, 2025.

Respectfully submitted,

LUIS TAPIA

Cindy Byerrum
CINDY BYERRUM

Attachments:

1. Proposed FY 2025-26 OC LAFCO Budget
    A. FY 2025-26 Budget Categories
    B. OC LAFCO City Apportionments for FY 2025-26 (prepared by the County Auditor-Controller)
    C. OC LAFCO Special District Apportionments for FY 2025-26 (prepared by County Auditor-Controller)
2. Three-year OC LAFCO Budget Projections (FYs 2026/27- 28/29)
3. OC LAFCO Resolution No. CP 25-01

Orange County Local Agency Formation Commission
Proposed Budget
Fiscal Year 2025/26

			FY 24/25 Adopted Budget	FY 25/26 Proposed Budget	$ Budget Variance	% Budget Variance
		Apportionment Increase Factor (%)	*12.0%*	*7.0%*		
1		**Revenue & Cash Reserves Use / (Addition)**				
2		Cash Reserves Use / (Addition)	$ 240,340	$ 110,340	$ (130,000)	-54.1%
3	4000	LAFCO Apportionment	1,581,320	1,692,010	110,690	7.0%
4	4200	Interest	38,390	35,640	(2,750)	-7.2%
5		**Total Revenue & Cash Reserves Use / (Addition)**	**1,860,050**	**1,837,990**	**(22,060)**	**-1.2%**
6		**Expense**				
7		**Salaries & Benefits**				
8	5000	Salaries	657,300	671,000	13,700	2.1%
9	5010	Hourly Employees	20,800	20,800	-	0.0%
10	5106	Retirement	265,900	274,700	8,800	3.3%
11	5109	Retiree Health Benefits	22,000	6,200	(15,800)	-71.8%
12	5108	Health Insurance	88,900	78,500	(10,400)	-11.7%
13	5110	Dental Insurance	11,600	5,600	(6,000)	-51.7%
14	5112	Life Insurance	420	420	-	0.0%
15	5118	Unemployment Insurance	200	540	340	170.0%
16	5119	Health Reimbursement Arrangement	7,800	8,200	400	5.1%
17	5102	Optional Benefit Plan	18,500	18,500	-	0.0%
18	5104	Deferred Compensation	19,000	19,400	400	2.1%
19	5116	Medicare	10,200	10,300	100	1.0%
20	5120	Salary Continuance	1,650	1,750	100	6.1%
21	5122	Accidental Death Insurance	120	120	-	0.0%
22	5125	Executive Car Allowance	7,200	7,200	-	0.0%
23		**Salaries & Benefits Total**	1,131,590	1,123,230	(8,360)	-0.7%
24		**Operations, Prof. Services & Other**				
25		**Office Operations**				
26	5150	Information Technology	21,600	21,600	-	0.0%
27	5151	Internet & Electronic Services	20,500	21,500	1,000	4.9%
28	5200	County Charges	12,000	13,100	1,100	9.2%
29	5250	Insurance	15,760	21,860	6,100	38.7%
30	5350	Membership/Subscriptions	40,400	28,600	(11,800)	-29.2%
31	5450	Office Equipment/Supplies	26,100	28,400	2,300	8.8%
32		**Professional Services**				
33	5510	Legal	60,000	60,000	-	0.0%
34	5520	Audit/Accounting	57,000	60,900	3,900	6.8%
35	5530	Human Resources	35,000	30,000	(5,000)	-14.3%
36	5540	Other Professional	200,000	200,000	-	0.0%
37		**Other Expense**				
38	5535	Mapping	4,000	4,000	-	0.0%
39	5550	Investment Admin Fees	850	850	-	0.0%
40	5600	Public Noticing / Communications	12,000	14,400	2,400	20.0%
41	5610	Unincorporated Areas Program	11,000	11,000	-	0.0%
42	5650	Rents/Improvements/Maintenance	115,000	118,700	3,700	3.2%
43	5675	Equipment Leases & Maintenance	8,100	8,100	-	0.0%
44	5700	Commissioner/Staff Expenses	5,000	5,000	-	0.0%
45	5710	Commission Stipends & Taxes/Fees	16,450	15,750	(700)	-4.3%
46	5740	Educational & Legislative Partnerships	-	16,000	16,000	0.0%
47	5750	Professional Development	20,000	20,000	-	0.0%
48	5800	Transportation & Travel	35,300	5,000	(30,300)	-85.8%
49	5850	Commission Meeting Expenses	12,400	10,000	(2,400)	-19.4%
50		**Operations, Prof. Services & Other Total**	728,460	714,760	(13,700)	-1.9%
51		**Total Expense**	**1,860,050**	**1,837,990**	**(22,060)**	**-1.2%**
52		**Net Budget**	**$ -**	**$ -**	**$ -**	**0%**

Orange County Local Agency Formation Commission
Proposed Budget
Fiscal Year 2025/26

	FY 24/25 Adopted Budget	FY 25/26 Proposed Budget	$ Budget Variance	% Budget Variance
Projected Cash Reserves				
Reserved Cash				
Contingency Reserve	100,000	$ 100,000		
Litigation Reserve	75,000	75,000		
Unfunded Liability Reserve	30,000	30,000		
Operating Reserve (25% Budgeted Expenses)	465,013	459,498		
Total Reserved Cash	**670,013**	**664,498**		
Unreserved Cash				
Balance at the Beginning of FY	718,367	601,822		
Addition / (Drawdown) to Unreserved Cash	(240,340)	(110,340)		
Total Unreserved Cash	**478,027**	**491,482**		
Total Projected Cash Reserves	**$ 1,148,039**	**$ 1,155,979**		

OC LAFCO FY 2025-26 BUDGET CATEGORIES

REVENUES

The following summarizes the revenue categories of the OC LAFCO Budget:

4000 OC LAFCO Apportionment

These funds are provided by the County, independent special districts and cities. The County pays 1/3 of the total apportionment cost. The cost allocation formulas for the cities and special districts are in accordance with the alternative formulas adopted by the City Selection Committee and the Independent Special Districts Selection Committee respectively.

4050 Filing Fees

These funds are provided by incoming project applications, including but not limited to annexations, reorganizations, incorporations, dissolutions, and consolidations. Filing fees vary with each project received and are not budgeted as revenue due to the uncertainty of when applications will be filed. Filing fees are collected to offset OC LAFCO salaries, benefits and other expenditures associated with applications.

4150 Miscellaneous Revenue

These funds are incurred by nonoperational income including but not limited to reimbursements.

4200 Interest

These funds are the interest earned from the agency's bank and County payroll accounts and investment portfolio, including the Local Agency Investment Fund (LAIF) and Orange County Fund (OC Fund).

EXPENDITURES

The following summarizes the expenditure categories of the OC LAFCO Budget:

5000-5125 Salaries and Benefits

These categories include costs incurred for OC LAFCO employee salaries and benefits, including retirement, life, accidental and disability insurance, health and dental insurance, and Medicare. OC LAFCO contracts with the County of Orange for payroll and benefit services.

5150 Information Technology

This category includes costs incurred for the technical support for regular maintenance and upgrades to the OC LAFCO computer systems and website. OC LAFCO contracts with independent consultants for IT and website services.

5151 Internet and Electronic Services

This category includes costs for the usage, technical support, equipment, leasing and maintenance of business electronic devices and internet services.

5200 County Charges
This category includes costs incurred for payroll processing, records archiving and storage, and billing, collection and intranet services provided by the County of Orange.

5250 Insurance
This category includes costs incurred for insurance coverage. OC LAFCO contracts with the County and a joint powers authority for the following coverages for instances that occur during the general operation of the agency.

- General Liability – Includes coverage for personal injury (including bodily injury and property damage), non-owned auto liability, public officials' errors and omissions and employment practices liability.
- Crime – Includes coverage for employee or non-employee theft, burglary, forgery or alteration, computer fraud, funds transfer fraud.
- Property - Includes per occurrence, all perils coverage for damage to property including personal property and business interruption coverage.
- Workers' Compensation – Includes coverage for employees involving work-related injuries.

5350 Membership/Subscriptions
This category includes memberships and subscriptions fees to CSDA, OCBC, CDR and other applicable memberships.

5450 Office Equipment and Supplies
This category includes costs incurred for the purchase of office supplies and equipment, computers, and software that support agency operations.

5500 Professional Services
This category includes costs incurred for professional services provided to OC LAFCO. The following are subcategories for professional services:

- ✓ **5510 Legal –** OC LAFCO general counsel services.

- ✓ **5520 Auditing/Accounting –** Bookkeeping, accounting and auditing services. OC LAFCO audited financial statements are prepared by an independent auditor.

- ✓ **5530 Human Resources –** Personnel services that may be provided by an independent consultant for assistance with recruitment, employment labor, professional development and other human resource areas.

- ✓ **5535 Mapping –** OC LAFCO's Geographic Information System (GIS) and other mapping programs.

- ✓ **5540 Other Professional Services** – Consulting and professional services for meeting facilitation, peer reviews, and preparation of Municipal Service Reviews, fiscal studies and other studies, reports and projects.

5550 Investment Admin Fees
This category includes costs incurred for administrative fees charged by the County of Orange for financial services related to the investment and payroll accounts.

5600 Public Noticing/Communications
This category includes costs incurred for required legal notices and other communications for Commission-initiated and other projects (e.g., spheres of influence reviews and updates, municipal service reviews, and annual budget adoption) that are not reimbursable through application fees.

5610 Unincorporated Areas Program
This category includes costs incurred for the processing of applications under the Commission's Unincorporated Areas Program.

5650 Rents/Improvements/Maintenance
This category includes costs for leasing, improvements, and maintenance of OC LAFCO office space.

5675 Equipment Leases/Maintenance
This category includes costs for leasing and maintenance of the OC LAFCO copier and printers.

5700 Commissioner/Staff Expenses
This category includes miscellaneous business expenses incurred by Commissioners and staff.

5710 Commissioner Stipends & Taxes/Fees
This category includes Commissioner meeting stipends and related employment taxes and fees.

5740 Educational and Legislative Partnerships
This category includes costs incurred for educational partnerships and legislative engagement efforts and registration costs to attend workshops, other business-related meetings and activities.

5750 Professional Development
This category includes costs related to employee professional development (e.g., college/university degree programs and courses, certificate programs, leadership seminars).

5800 Transportation and Travel
This category includes costs incurred for transportation, and travel expenses for

commissioners and staff to attend workshop, and board meetings and other business-related meetings and activities.

5850 Commission Meeting Expenses

This category includes costs incurred for communications, room rental, parking and miscellaneous expenses for Commission meetings.

RESERVES

Contingency Reserve

Restricted funds used to cover any unforeseen future agency loss and/or urgency (i.e., property or equipment damage, loss or theft).

Reserve for Litigation

Restricted funds used for costs related to agency litigation not covered by application fees and deposits.

Unfunded Liability Reserve

Restricted funds used to offset anticipated agency liabilities (i.e., employee compensated absences).

OC LAFCO FY 2025-26 City Allocations

City	FY 2025-26 City Allocation
Aliso Viejo	$ 8,723.25
Anaheim	60,592.75
Brea	10,490.47
Buena Park	14,081.28
Costa Mesa	19,288.91
Cypress	8,497.65
Dana Point	6,429.63
Fountain Valley	10,283.66
Fullerton	25,530.55
Garden Grove	27,692.57
Huntington Beach	33,877.80
Irvine	62,811.17
Laguna Beach	5,978.44
Laguna Hills	6,147.63
Laguna Niguel	13,310.48
Laguna Woods	3,327.62
La Habra	10,302.46
Lake Forest	16,844.90
La Palma	2,519.22
Los Alamitos	2,970.42
Mission Viejo	17,803.71
Newport Beach	19,570.91
Orange	26,489.35
Placentia	8,911.25
Rancho Santa Margarita	10,377.66
San Clemente	14,325.69
San Juan Capistrano	9,512.86
Santa Ana	48,504.29
Seal Beach	7,294.45
Stanton	6,110.04
Tustin	13,799.28
Villa Park	1,466.40
Westminster	14,739.29
Yorba Linda	15,397.29
TOTAL	**$ 564,003.33**

Prepared by AC/GA: Daiana Hwang
Completed date: 2/18/25
Printed on: 2/19/2025

OC LAFCO FY 2025-26 Special District Allocations

District	ISDOC Formula Calulation FY 2025-26
Silverado-Modjeska Rec. & Park	$ 620.40
Surfside Colony Stormwater	620.40
Surfside Colony CSD	620.40
Rossmoor/Los Alamitos Area Sewer District	3,214.82
Capistrano Bay CSD	3,214.82
Rossmoor CSD	3,214.82
Three Arch Bay CSD	3,214.82
Emerald Bay CSD	3,214.82
Buena Park Library District	3,214.82
Placentia Library District	3,214.82
Orange County Cemetery District	6,429.64
Orange County Vector Control District	6,429.64
Total Non-Enterprise Districts	**$ 37,224.22**
Sunset Beach Sanitary District	6,486.04
Serrano Water District	19,288.91
East Orange Co. Water District	25,718.55
Midway City Sanitary District	25,718.55
Trabuco Canyon Water District	25,718.55
Costa Mesa Sanitary District	25,718.55
El Toro Water District	32,091.79
Mesa Water District	38,521.43
Yorba Linda Water District	38,521.43
South Coast Water District	38,521.43
Moulton Niguel Water District	44,951.07
Santa Margarita Water District	44,951.07
Municipal Water District of O.C.	51,380.70
Orange County Water District	51,380.70
Irvine Ranch Water District	57,810.34
Total Enterprise Districts	**$ 526,779.11**
Total Special Districts	**$ 564,003.33**

Prepared by AC/GA: Daiana Hwang
Completed date: 2/18/25
Printed on: 2/19/2025

Orange County Local Agency Formation Commission
Proposed Budget
Fiscal Year 2025/26-2028/29

			FY 25/26 Proposed Budget	FY 26/27 Projection	FY 27/28 Projection	FY 28/29 Projection
		Apportionment Increase Factor (%)	*7.0%*	*5.0%*	*5.0%*	*5.0%*
1		**Revenue & Cash Reserves Use / (Addition)**				
2		Cash Reserves Use / (Addition)	$ 110,340	$ 104,690	$ 91,520	$ 76,460
3	4000	LAFCO Apportionment	1,692,010	1,776,610	1,865,440	1,958,700
4	4200	Interest	35,640	20,000	20,000	20,000
5		**Total Revenue & Cash Reserves Use / (Addition)**	**1,837,990**	**1,901,300**	**1,976,960**	**2,055,160**
6		**Expense**				
7		**Salaries & Benefits**				
8	5000	Salaries	671,000	711,300	750,500	788,100
9	5010	Hourly Employees	20,800	22,100	23,400	24,600
10	5106	Retirement	274,700	291,200	307,200	322,600
11	5109	Retiree Health Benefits	6,200	6,600	7,000	7,400
12	5108	Health Insurance	78,500	82,500	86,700	91,100
13	5110	Dental Insurance	5,600	5,790	5,990	6,200
14	5112	Life Insurance	420	450	480	510
15	5118	Unemployment Insurance	540	570	610	700
16	5119	Health Reimbursement Arrangement	8,200	8,200	8,200	8,200
17	5102	Optional Benefit Plan	18,500	18,500	18,500	18,500
18	5104	Deferred Compensation	19,400	20,570	21,710	22,800
19	5116	Medicare	10,300	11,000	11,500	12,100
20	5120	Salary Continuance	1,750	1,850	1,960	2,100
21	5122	Accidental Death Insurance	120	130	140	150
22	5125	Executive Car Allowance	7,200	7,200	7,200	7,400
23		**Salaries & Benefits Total**	1,123,230	1,187,960	1,251,090	1,312,460
24		**Operations, Prof. Services & Other**				
25		**Office Operations**				
26	5150	Information Technology	21,600	12,300	12,700	13,000
27	5151	Internet & Electronic Services	21,500	22,200	22,800	23,300
28	5200	County Charges	13,100	13,500	13,900	14,200
29	5250	Insurance	21,860	22,600	23,200	23,700
30	5350	Membership/Subscriptions	28,600	29,460	30,200	30,900
31	5450	Office Equipment/Supplies	28,400	29,260	30,000	30,600
32		**Professional Services**				
33	5510	Legal	60,000	60,000	60,000	61,200
34	5520	Audit/Accounting	60,900	62,730	64,300	65,600
35	5530	Human Resources	30,000	25,900	26,550	27,100
36	5540	Other Professional	200,000	200,000	200,000	204,000
37		**Other Expense**				
38	5535	Mapping	4,000	4,120	4,230	4,400
39	5550	Investment Admin Fees	850	880	910	1,000
40	5600	Public Noticing / Communications	14,400	14,840	15,220	15,600
41	5610	Unincorporated Areas Program	11,000	11,000	11,000	11,000
42	5650	Rents/Improvements/Maintenance	118,700	122,100	125,900	129,900
43	5675	Equipment Leases & Maintenance	8,100	8,350	8,560	8,800
44	5700	Commissioner/Staff Expenses	5,000	5,200	5,400	5,600
45	5710	Commission Stipends & Taxes/Fees	15,750	16,300	16,800	17,200
46	5740	Educational & Legislative Partnerships	16,000	16,500	17,000	17,400
47	5750	Professional Development	20,000	20,600	21,200	21,700
48	5800	Transportation & Travel	5,000	5,200	5,400	5,600
49	5850	Commission Meeting Expenses	10,000	10,300	10,600	10,900
50		**Operations, Prof. Services & Other Total**	714,760	713,340	725,870	742,700
51		**Total Expense**	**1,837,990**	**1,901,300**	**1,976,960**	**2,055,160**
52		**Net Budget**	**$ -**	**$ -**	**$ -**	**$ -**

Orange County Local Agency Formation Commission
Proposed Budget
Fiscal Year 2025/26-2028/29

	FY 25/26 Proposed Budget	FY 26/27 Projection	FY 27/28 Projection	FY 28/29 Projection
Projected Cash Reserves				
Reserved Cash				
Contingency Reserve	$ 100,000	$ 100,000	$ 100,000	$ 100,000
Litigation Reserve	75,000	75,000	75,000	75,000
Unfunded Liability Reserve	30,000	30,000	30,000	30,000
Operating Reserve (25% Budgeted Expenses)	459,498	475,325	494,240	513,790
Total Reserved Cash	**664,498**	**680,325**	**699,240**	**718,790**
Unreserved Cash				
Balance at the Beginning of FY	601,822	475,654	352,049	240,979
Addition / (Drawdown) to Unreserved Cash	(110,340)	(104,690)	(91,520)	(76,460)
Total Unreserved Cash	**491,482**	**370,964**	**260,529**	**164,519**
Total Projected Cash Reserves	**$ 1,155,979**	**$ 1,051,289**	**$ 959,769**	**$ 883,309**

CP 25-01

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION

OF ORANGE COUNTY, CALIFORNIA

UPDATING THE OC LAFCO FEE SCHEDULE

March 12, 2025

On motion of ______________________ duly seconded and carried, the following resolution was adopted:

WHEREAS, California Government Code Section 56383 allows for a Local Agency Formation Commission to establish a schedule of fees for the costs of proceedings; and

WHEREAS, it is the Commission's policy that fees should be based on actual processing costs plus the costs of necessary indirect and administrative functions; and

WHEREAS, the Executive Officer gave notice of this matter in the manner required by law; and

WHEREAS, the Commission complied with the requirements of Government Code Section 66016; and

WHEREAS, the Commission discussed and considered all written testimony for and against this matter including, but not limited to, the staff report and recommendations from the Executive Officer.

NOW, THEREFORE, the Local Agency Formation Commission of Orange County based on the findings, discussion, and conclusions set forth in the staff report, which is incorporated herein by this reference, DOES HEREBY RESOLVE, DETERMINE and ORDER as follows:

1. The fee schedule set forth in Attachment 1 attached hereto is hereby adopted, to become effective on July 1, 2025.
2. The fees set forth in Attachment 1 attached hereto do not exceed the estimated reasonable costs of providing the services for which the fees are charged and are necessary to pay the costs of operations related to filing and processing applications to the Local Agency Formation Commission of Orange County.

AYES:

NOES:

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, Donald P. Wagner, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 12th day of March 2025.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March 2025.

Donald P. Wagner
Chair of the Local Agency Formation Commission
of Orange County

By: ___________________________________
Donald P. Wagner

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY
SCHEDULE OF FILING AND PROCESSING FEES

Effective July 1, 2025

FEE SCHEDULE OVERVIEW

In accordance with Government Code Section 56383, the Commission may establish a schedule of fees and a schedule of service charges for the Local Agency Formation Commission of Orange County (OC LAFCO) proceedings. The submission of an application to OC LAFCO is not officially accepted for processing until the filing fee deposits have been received by the agency. The fees associated with an application or petition are calculated on a time and materials schedule as detailed in the Fee Schedule.

PROVISIONS

1. **Additional Deposits:**
   a. The Executive Officer may require an additional deposit from applicants to cover actual costs for review and processing of any application if the Executive Officer determines the project is extraordinary in scope. For example, the Executive Officer may determine that the processing of the proposal will require advice and counsel from OC LAFCO's General Counsel beyond routine review of the Executive Officer's report, Commission resolutions, and agenda materials. Further, OC LAFCO reserves the right to require reimbursement for additional expenses not listed in the fee schedule but incurred as a result of processing an application.

   b. If the actual charges exceed the amount of the deposit, the applicant or petitioner shall be notified and shall pay the excess within 15 days of receipt of a statement from OC LAFCO. Failure to pay may be cause for delay and/or denial of the application/petition, and no proceeding or application shall be completed until all fees due have been paid in full.

2. **Indemnification Agreement Requirement**
   As a condition of approval of any change of organization or reorganization, out-of-agency service agreement, sphere of influence or municipal service review by OC LAFCO, the applicant(s) and real party(ies) in interest are required to defend, indemnify, hold harmless, and release OC LAFCO and its agents, officers, attorneys, and employees from any claim, action, or proceeding against OC LAFCO, and its agents, officers, attorneys, and employees to attack, set aside, void, or annul the approval of OC LAFCO concerning the proposal or any action relating to, or arising out of, such approval. In accordance with the Commission's Policy for Indemnification of OC LAFCO by Applicants (adopted March 8, 2000), the applicant(s) and real party (ies) in interest are required to submit a signed indemnification agreement as part of the application.

ORANGE COUNTY LAFCO FEE SCHEDULE

OC LAFCO PROCESSING FEES

TYPE OF ACTION	COST SCHEDULE	INITIAL DEPOSIT
Change of Organization (e.g., annexation or detachment)	Time and Materials	$4,600
Change of Organization with Sphere of Influence Change	Time and Materials	$5,600
Reorganization (two or more changes of organization/sphere of influence change)	Time and Materials	$7,900
District Formations or Consolidations	Time and Materials	$10,000
District Dissolutions, Mergers, or Establishment of a Subsidiary District	Time and Materials	$7,900
City Incorporations/Dis-incorporations *(Also see additional project completion fees.)*	Time and Materials	$10,000
Activation of Latent Powers	Time and Materials	$7,900
Request for Municipal Service Review and/or Sphere of Influence Review/Update	Time and Materials	$7,900
Out-of-Agency Service Agreement	Time and Materials	$4,600
Request for Reconsideration	Time and Materials	$3,200
Request for Extension of Time to Complete Proceedings	Time and Materials	$1,000

OC LAFCO STAFF/LEGAL COUNSEL BILLING RATES

OC LAFCO Staff Rate	Fully Burdened Hourly Rate*
OC LAFCO Legal Counsel	Actual Costs*

See Exhibit A.

PROJECT COMPLETION FEES AND CHARGES

Public Noticing and Publication Costs	Actual Costs *(Based on noticing required by Government Code Section 56661)*
State Board of Equalization Fees	Actual Costs *(Payable to the State Board of Equalization and based on their latest fee schedule.)*
Compliance with California Environmental Quality Act (CEQA)	Actual Costs *(May include OC LAFCO staff time to prepare environmental documentation, actual consultant costs, and appropriate filing fees. Department of Fish and Wildlife filing fees are required to be paid at the time OC LAFCO files the Notice of Determination with the Clerk of the Board. The fees listed below include the county's $50 filing fee and are current as of January 1, 2021)* *a. Negative Declaration: $2,968.75* *b. Environmental Impact Report: $4,123.5*
Comprehensive Fiscal Analysis for Incorporation or Disincorporation Proposals	Actual Costs *(A $50,000 deposit is required at the time the application is submitted. All excess costs will be the responsibility of the project proponent; any balance will be refunded at the conclusion of the project.)*
State Controller's Fiscal Review for Incorporations	Actual Costs *(A $25,000 deposit is required at the time a Request for State Controller Review is submitted. All excess costs will be the responsibility of the project proponent, any balance will be refunded at the conclusion of the project.)*
Registrar of Voters – Verification of Signatures	Actual Costs
Special Legal Counsel Costs	Actual Costs
Consultants	Actual Costs

MATERIALS CHARGES

Reproduction and Faxing Costs	Actual Cost*
Postage or Overnight Service	Actual Cost
Monthly Agenda Packet (hard copy)	Actual Cost *

See Exhibit A.

EXHIBIT A
ORANGE COUNTY LAFCO FEE SCHEDULE
DIRECT COSTS
Effective July 1, 2025

1. Fully burdened staff hourly rates:

Position	Hourly Rate
Executive Officer	$ 212
Assistant Executive Officer	$ 122
Policy Analyst*	$ 67-77
Commission Clerk	$ 77

*Analyst I and Analyst II Class Series

2. Legal Counsel Hourly Rates: $306 (OC LAFCO-initiated services)
$607.50 (project applicant-initiated services)

3. Reproduction Cost - 0.25 per page

4. Audio Disc Reproduction Cost - $15

ORANGE COUNTY LAFCO

2677 North Main Street | Suite 1050
Santa Ana, CA 92705
Phone: 714.640.5100 | **Fax:** 714.640.5139

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglass Davert
Special District Member

James Fisler
Special District Member

Peggy Huang
City Member

Derek J. McGregor
Public Member

VACANT
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

VACANT
County Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

7b | **Public Hearing**

MEETING DATE: March 12, 2025

TO: Local Agency Formation Commission of Orange County

FROM: Assistant Executive Officer

SUBJECT: Focused Municipal Service Review and Sphere of Influence Update for the Orange County Water District (MSR 23-06 and SOI 23-06) and Feasibility Analysis of the Potential Consolidation of the Orange County Water District and Municipal Water District of Orange County

In October 2022, OC LAFCO received an application from the Orange County Water District (OCWD) to conduct a focused Municipal Service Review (MSR). Following a request for proposals process for the selection of consultants and approval of the scope of work for the report, the MSR process began in June 2023. Since the start of the MSR, OC LAFCO staff has worked collaboratively with the consultants Albert A. Webb Associates (WEBB) and John Schatz, and the consultants have worked with the affected agencies to collect the data used as the foundation of the report.

A 30-day public review and comment period was conducted for the Public Draft Focused OCWD MSR from November 15, 2024 to December 30, 2024. Every city and special district within OCWD's and the Municipal Water District of Orange County's (MWDOC) boundaries were notified of the review period and publishing of the draft MSR on the OC LAFCO website. Comments were received, and a comment log with the responses by the consultants is attached to this report (**Attachment 2**).

Staff recommends that the Commission receive and file the Focused MSR and adopt the MSR and SOI statement of determinations for the OCWD MSR included as part of the report.

PURPOSE OF THE FOCUSED MSR

The Focused MSR includes the comprehensive MSR and Sphere of Influence (SOI) update consistent with the Commission's five-year cycle of MSRs for OCWD and a feasibility analysis of the potential consolidation of OCWD and the Municipal Water District of Orange County (MWDOC). Prior to the Focused MSR, the recent comprehensive MSR for OCWD was conducted in 2013, and for MWDOC, the MSR was conducted and approved by the Commission in 2020.

WEBB was responsible for conducting the comprehensive MSR of OCWD in accordance with Government Code Sections 56425 (Spheres of Influence) and 56430 (Municipal Service Reviews) and preparing the feasibility analysis of the potential consolidation of OCWD and MWDOC. Mr. Schatz focused on reviewing and preparing an assessment of the required legislative changes concerning the feasibility of a potential consolidation of OCWD and MWDOC.

ENVIRONMENTAL REVIEW

Orange LAFCO is the lead agency under the California Environmental Quality Act (CEQA) for the MSR and SOI reviews for OCWD. Staff reviewed the CEQA Guidelines and recommend that the Commission find the MSR and SOI reviews are exempt from CEQA under CEQA Guidelines §15262 (Feasibility and Planning Studies). The draft Notice of Exemptions prepared for the Focused MSR is included as **Attachment 3, Exhibit 1 and Attachment 4, Exhibit 2**.

RECOMMENDED ACTIONS

Staff Recommends the Commission:

1. Find the Focused Municipal Service Review and Sphere of Influence Update for OCWD and Feasibility study of the Potential Consolidation of OCWD and MWDOC categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15262.

2. Receive and file the Focused Municipal Service Review and Sphere of Influence Update for OCWD and Feasibility Study of the Potential Consolidation of OCWD and MWDOC.

3. Approve the OC LAFCO Resolution No. MSR 23-06 adopting the Municipal Service Review Statement of Determinations for the Focused Municipal Service Review for OCWD and Feasibility Study of the Potential Consolidation of OCWD and MWDOC.

4. Approve the OC LAFCO Resolution No. SOI 23-06 adopting the Sphere of Influence Statement of Determinations and reconfirming the sphere of influence for OCWD.

5. Approve the Notices of Exemption for MSR 23-06 and SOI 23-06 (**Attachment 3, Exhibit 1** and **Attachment 4, Exhibit 2**)

Respectfully Submitted,

LUIS TAPIA

Attachment:

1. Focused Municipal Service Review for the Orange County Water District and Feasibility study of the Potential Consolidation of the Orange County Water District and Municipal Water District of Orange County.
2. Comment Log
3. OC LAFCO Resolution No. MSR 23-06
4. OC LAFCO Resolution No. SOI 23-06
5. Correspondence from Evan Martin
6. Correspondence from Jim Van Haun
7. Correspondence from Steve Kerrigan
8. Correspondence from Municipal Water District of Orange County
9. Correspondence from Orange County Water District
10. Correspondence from Santa Margarita Water District
11. Correspondence from South Orange County Water Agencies Group

ATTACHMENT 1

ORANGE COUNTY LAFCO

MUNICIPAL SERVICE REVIEW

Orange County Water District

March 12, 2025

MSR 23-06 | SOI 23-06

Municipal Service Review and Sphere of Influence Update for the Orange County Water District

Including a Feasibility Analysis of the Potential Consolidation of Orange County Water District and Municipal Water District of Orange County

Prepared for

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY
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Laguna Niguel, CA 92607

March 12, 2025

Acknowledgement

Orange County LAFCO and the consultants acknowledge the time and effort of the staff of Orange County Water District and Municipal Water District of Orange County in the preparation of this report.

Photo Cover:
From left to right, Anaheim Lake,
Microfiltration Facility, and Prado Wetlands
from Orange County Water District

Table of Contents

Appendix

A MWDOC and OCWD Budget Line Item Explanations

B Successor Agency Budget Explanation of Line Item Savings

C Existing Projects, Programs, and Contracts of MWDOC and OCWD

Tables

Figures

Exhibits

Charts

Acronyms and Abbreviations

Acronyms	
AB	Assembly Bill
ACWA	Association of California Water Agencies
AF	acre-feet
AFY	acre-feet per year
BEA	Basin Equity Assessment
BPP	Basin Production Percentage
CCR	Consumer Confidence Reports
CDR	Center for Demographic Research at California State University, Fullerton
CKH Act	Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
CSDA	California Special Districts Association
CWP	California Water Plan
CY	Calendar Year
DUC	Disadvantaged Unincorporated Community
DWR	California Department of Water Resources
EPA	U.S. Environmental Protection Agency
FIRO	Forecast-Informed Reservoir Operations
FY	Fiscal Year
GAP	Green Acres Project
Gov. Code	Government Code
GMP	Groundwater Management Plan
Groundwater Basin	Orange County (OC) Groundwater Basin
GSA	Groundwater Sustainability Agency
GWRS	Groundwater Replenishment System
IRWD	Irvine Ranch Water District
JPA	Joint Powers Authority
LAFCO	Local Agency Formation Commission
MCL	maximum contaminant level
MGD	million gallons per day
MSR	Municipal Service Review
MWD	The Metropolitan Water District of Southern California
MWDOC	Municipal Water District of Orange County
O&M	Operation and maintenance
OCBC	Orange County Business Council
OC LAFCO	Local Agency Formation Commission of Orange County
OC San	Orange County Sanitation District
OCWA	Orange County Water Association
OCWD Act	Orange County Water District Act
OCWD	Orange County Water District

Acronyms

OPEB	Other Post-Employment Benefits
PFAS	Per- and Polyfluoroalkyl Substances
PFOA	Perfluorooctanoic Acid
PFOS	Perfluorooctanesulfonic Acid
ppt	parts per trillion
RA	Replenishment Assessment
RWQCB	Regional Water Quality Control Board – Santa Ana Region
SAR	Santa Ana River
SAWPA	Santa Ana Watershed Project Authority
SB	Senate Bill
SGMA	Sustainable Groundwater Management Act of 2014
SOI	Sphere of Influence
SWP	State Water Project
USACE	U.S. Army Corps of Engineers
UWMP	Urban Water Management Plan
WACO	Water Advisory Committee of Orange County
WEBB MF	Webb Municipal Finance
WEROC	Water Emergency Response Organization of Orange County
WRD	Water Replenishment District of Southern California
WY	Water Year

Executive Summary

Municipal Service Review & Sphere of Influence Update

On October 4, 2022, Orange County Water District (OCWD or "District") submitted an application with the Local Agency Formation Commission of Orange County (OC LAFCO) to prepare a Comprehensive Municipal Service Review (MSR) and Sphere of Influence (SOI) update. The MSR is located in Chapter 3 and the SOI is located in Chapter 4, herein. The application from OCWD included a request for a feasibility analysis of the potential consolidation of OCWD and the Municipal Water District of Orange County (MWDOC). The Consolidation Feasibility Study is located in Chapter 5.

OCWD was created by a special act of the state legislature in 1933 (the "OCWD Act") to manage the Orange County (OC) Groundwater Basin ("Basin"). OCWD is governed by a 10-member Board of Directors representing the District's 10 Divisions. The District's boundary is limited by the Basin and includes the Orange County portion of the Santa Ana River Watershed. The Basin has not been comprehensively adjudicated by a court. However, the OCWD Act has long served to provide economic incentives and disincentives for OCWD to manage groundwater production based upon desired Basin conditions.[1] Producers are generally able to pump up to their total water demand within OCWD, but pumping in excess of the Basin Production Percentage can trigger an additional assessment or surcharge.

The OCWD Act gives legal authority to the District's Board of Directors to fulfill its charge by working cooperatively with groundwater producers (pumpers), conducting extensive groundwater elevation and water quality monitoring, constructing and expanding recharge facilities, procuring recharge water supplies, and setting the annual percentage of total water demands that each groundwater producer can extract without triggering an additional assessment ("Basin Equity Assessment ," or BEA), among other efforts. OCWD manages the Basin and does not supply water directly to retail customers. OCWD manages the Basin like a reservoir that holds approximately 500,000 acre-feet (AF) of water; however, it keeps the Basin less than 100 percent full in order to maintain storage space for flood events, minimize water loss to the Los Angeles County side of the basin.

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[1] OCWD notes that numerous appellate courts have rulled upon water rights issues, and how management should occur within the Basin, as recently as this October, see *Irvine Ranch Water Dist. v. Orange Ctr. Water Dist.*,No. B329089, 2024 Cal. App. Unpub. LEXIS 6333 (Oct. 7, 2024) ("IRWD v. OCWD"). See also *Orange Cty. Water Dist. V. Riverside, 173 Cal. App. 2d 137 (1959)* and *Orange Cty. Water Dist. V. Farnsworth, 138 Cal. App. 2d 518 (1956).*

The District's sphere of influence (SOI) totals 569 square miles, of which 52 square miles extends into the Pacific Ocean and 125 square miles include unincorporated Orange County. OCWD's Service Area encompasses 430 square miles of the SOI and includes retail water suppliers consisting of 13 cities and five water districts and one investor owned utility, which distribute water directly to their customers (collectively referred to as the "19 Groundwater Producers"), and small private well owners and mutual water companies within the Service Area. The boundaries of OCWD's SOI and Service Area are not coterminous. A total of 18 incorporated Orange County cities are fully located within the OCWD SOI and Service Area. These cities are Anaheim, Buena Park, Costa Mesa, Cypress, Fountain Valley, Garden Grove, Huntington Beach, La Palma, Los Alamitos, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster and Yorba Linda. Portions of the Cities of Irvine and Newport Beach are within both OCWD's SOI and Service Area. The Cities of Orange and Fullerton are fully within the SOI; however, a small area of Orange and Fullerton are not fully within the OCWD Service Area. Five incorporated Orange County cities are totally or partially within the SOI but outside of the OCWD Service Area: Aliso Viejo, Brea, Laguna Hills, Laguna Woods, and Lake Forest. The District has no facilities nor provides services outside of the District's Service Area.

Approximately 125 square miles of the SOI is unincorporated county (35 square miles of which is in the OCWD Service Area). A total of 11 disadvantaged unincorporated communities (DUCs) were identified within the OCWD SOI, specifically within Division 1. DUCs are census blocks with a median household income that is 80 percent or less than the statewide value that are also located in unincorporated county areas. Water service to customers within these areas is provided by the local retail water suppliers who obtain groundwater from OCWD. Four of the 11 DUCs are also within the City of Anaheim's SOI and collectively identified as the Southwest Anaheim DUC; two DUCs are in the City of Stanton's SOI and individually identified as Mac/Syracuse DUC and Dale/Augusta DUC; and five DUCs are in the City of Westminster's SOI that include the three in the Bolsa/Midway DUC, one in Bolsa/Pacific DUC, and one in Bolsa/McFadden DUC. The water suppliers include four mutual water companies, the Cities of Anaheim and Westminster, and Golden State Water Company.

This study identified nine mutual water companies within the SOI; four of which serve portions of the 11 DUCs located in Division 1. The other five mutual water companies are located elsewhere in the SOI including Knott's Berry Farm in Buena Park, the Los Alamitos Racetrack, Anaheim, Huntington Beach, and Fullerton. Mutual water companies are private not-for-profit organizations that are organized under California Corporations Code 14300, and regulated under the federal Safe Drinking Water Act, the California Water Code and Health and Safety Code, and the California Department of Public Health. They also report their boundaries to OC LAFCO. Although included in

OCWD's Well Monitoring Program, mutual water companies are not often equipped to address water quality constraints and/or upgrade their infrastructure as quickly as larger, more well-funded water suppliers. Therefore, this study recommends OCWD offer technical assistance to mutual water companies upon their request for things like funding opportunities for system improvements, well monitoring or water testing.

OCWD conducts annual, independent financial audits and maintains AAA credit ratings with Fitch Ratings and Standard & Poors. The OCWD Fiscal Year 2023-2024 Budget was adopted by the Board of Directors on April 19, 2023 with a total budget of $279.2 million, which represents a decrease of 10.5 percent from the previous year. The majority of revenue (62 percent of revenues) comes from the Replenishment Assessment and the largest expenditure (36 percent of expenses) is attributed to 19 Capital Projects which are debt and PAYGO funded. OCWD has a defined contribution retirement plan, and the District's medical retirement plan is fully funded as of June 30, 2023. OCWD continues to meet the requirements of its reserve policy and total reserves are approximately $308 million on June 30, 2023. The District has approximately $870 million in outstanding debt as of July 1, 2023. Debt repayment is budgeted annually at approximately $45 million. The District is able to meet all its budgeted expenses and obligations and maintain an AAA credit rating with Fitch and Standard and Poors. Replenishment Assessments can and do increase annually when necessary to help ensure revenues meet expense requirements. This flexibility along with its other revenue sources, budgeted reserves, and great credit ratings put OCWD in a stable financial position to continue providing current groundwater management services to its customers.

According to the 2020 Census, the OCWD Service Area contains approximately 2.44 million residents. The Center for Demographic Research's "Orange County Progress Report 2023" estimates the Service Area population to increase 4.5 percent over 25 years to approximately 2.55 million residents by 2045. Therefore, significant population growth is not expected in the Service Area. Between Water Years (WY) 2012-2013 and 2022-2023 groundwater pumping has decreased on average 1.5 percent each year.[2] This is likely the result of several influences including a prolonged drought from 2012-2016[3] that triggered significant conservation of groundwater and imported water, and new state guidelines established in 2019 and 2020 for certain PFAS contaminants resulting in decreased groundwater pumping. Total water demands within OCWD were

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[2] WY (Water Year) is defined as the 12-month period beginning October 1 through September 30 of the following year (e.g., WY 2023-2024 would be October 1, 2023 – September 30, 2024).

[3] According to the California Department of Water Resources' *Report to the Legislature on the 2012-2016 Drought* (March 13, 2021), "It unfolded in a context of record statewide temperatures, which exacerbated the impacts of water shortage, setting new markers for extreme conditions. The Sierra Nevada snowpack in 2015, for example, was the lowest on record. Based on statewide precipitation, 2012–2015 were the four driest consecutive years on record."

at their lowest in 50 years at the end of WY 2022-2023, which is likely the result of reduced outdoor irrigation because of the above-average rainfall. However, groundwater pumping for WY 2023-2024 is projected to increase 14.2 percent over the one-year period from WY 2022-2023 and projected to increase gradually for the next 25 years, but still less than total water demands recorded in the early 2000s. To bolster its water supply for the Basin, OCWD has recently completed projects that will allow for additional capture of Santa Ana River water, and recently expanded the treatment capacity of its advanced recycled water treatment facility. Records indicate that recharge efforts by OCWD have been effective in replenishing the Basin water supply.

Water demands within the OCWD Service Area are expected to be met over the planning horizon of this MSR analysis including the future increase in population, given the following factors: (1) the District's collaboration with the Center for Demographic Research to proactively monitor demographic changes in the Service Area and in particular, population growth; (2) District projections accounting for future growth in each Groundwater Producer's service area; and (3) the District's demonstrated ability to meet greater water demands in the past as compared to current water demands.

The capacity of OCWD's infrastructure to manage the basin sufficiently was demonstrated in WY 2022-2023 when rainfall exceeded 158 percent of the long-term average. By the end of June 2022, more water was recharged than anticipated resulting in filling the Basin with an additional 69,000 AF, despite some losses to the ocean. Therefore, OCWD's capacity is commensurate with the population it currently serves. The District's planning efforts are demonstrated in the annual Comprehensive Financial Report, Annual Budget, and CIP by identifying the resources required to repair, replace, and expand facilities in order to meet its stated mission. In terms of supply capacity, the District has many water rights and entitlements to water supplies. OCWD will need to continue to budget for maintenance and expansions of capacity as infrastructure ages, regulations change, and collaboration opportunities arise.

The primary constraint on the ability of OCWD to provide its services is water quality. Specifically, per- and polyfluoroalkyl substances (PFAS), groundwater contamination plumes, and seawater intrusion causes wells to be turned off until additional actions are taken. In the meantime, alternative sources of water supply, primarily imported water are utilized. These constraints, however, do not diminish the District's ability or capacity to replenish the Basin adequately.

The District partners with many different entities on projects that benefit and further the goals of the OCWD Act. The status of shared projects and facilities is well-documented to support the services provided by OCWD and referenced in this report. Partnership opportunities are expected for the future, which may include but are not limited to, a second emergency connection to South Orange County water agencies, addressing seawater intrusion at the “Sunset Gap” and/or “Bolsa Gap,” securing funding for the 19 Groundwater Producers to construct water treatment systems to address PFAS contamination in wells, and paying one-half of all PFAS treatment system operation and maintenance (O&M) costs. The opportunities for shared facilities continue to evolve at a sufficient pace for the purpose of supporting the services provided by OCWD.

During the course of our review, three gaps were noted in the OCWD Service Area that are located within the City of Newport Beach (Figure 2). The total area not included in the Service Area is 31 acres and likely an inadvertent mapping error. The three gaps in the District’s Service Area boundary are within the water service area of the City of Newport Beach. These gaps are fully within the SOI of OCWD, and the District has indicated no reason to not annex these gaps into their Service Area; however the District indicated that further research would need to be done prior to submitting an annexation application to OC LAFCO.

In conclusion, OCWD has always been able to meet the water demands of its Groundwater Producers, and it is expected the District would continue to do so in the future, accounting for population projections.

Consolidation Feasibility Study

In the October 4, 2022 application from OCWD to OC LAFCO for an updated MSR/SOI, OCWD requested preparation of a “Focused MSR” in response to the criticisms of the 2022 Grand Jury report to “dive deep” into the different issues that would need to be considered in consolidating the two agencies, OCWD and MWDOC. The consolidation feasibility study uses the adopted budgets of Fiscal Years 2021/2022, 2022/2023, and 2023/2024 from OCWD and MWDOC on which to estimate fiscal efficiencies upon consolidation. A Successor Agency is unknown, and pursuant to the CKH Act, the analysis assumed the Successor Agency would continue providing all services currently provided by each agency. In order to make a finding on fiscal sustainability of the Successor Agency, the study estimates the cost-savings of changes in staffing, board members, and two retirement plan options (defined benefit and defined contribution plans) for the Successor Agency, as well as a combined Statement of Net Position. In accordance with Gov. Code Section 56881(b)(1), LAFCO must make the determination that public service costs of a proposal are likely to be less than or substantially similar to costs under alternative means of providing services.

CHAPTER ONE | INTRODUCTION

1.0 History and Mission of Local Agency Formation Commissions

To improve regional planning and growth management as California's population grew after the end of World War II, the California Legislature adopted in 1963 the Knox-Nisbet Act, which established a Local Agency Formation Commission (LAFCO) in each county. Subsequently in 1971, the Legislature expanded the responsibilities of each LAFCO to include the establishment of spheres of influence (SOI) – areas of planned growth – for all cities and special districts. Furthermore, in 2001 the Legislature enacted the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) that has improved the effectiveness of LAFCOs to fulfill their legislative mission. The CKH Act requires SOIs to be reviewed every five years and updated as conditions warrant and prepare Municipal Service Reviews (MSRs) to evaluate the adequacy of service relative to current and future community needs.

1.1 Authority and Powers

The California Legislature has bestowed its authority to regulate local government boundaries, including the power to create and dissolve local agencies and change their boundaries, to LAFCOs. No local government can unilaterally change its own boundary, nor can voters use an initiative or referendum to modify a boundary to bypass LAFCO consideration.

Local Agency Formation Commission of Orange County

OC LAFCO serves Orange County cities, special districts, and the county to ensure effective and efficient delivery of municipal services.

The CKH Act directs LAFCOs to achieve three primary goals:

1. Discourage urban sprawl.
2. Encourage orderly governmental boundaries.
3. Preserve open space[4] and prime agricultural lands.[5]

[4] "Open space" is defined in Gov. Code Sections 56059 and 56060, and Gov. Code Section 65560.

[5] "Prime agricultural land" is defined in Gov. Code Section 56064.

Reviewing and approving (or denying) proposals to change boundaries is the method by which each LAFCO can regulate boundary changes. Adopting and revising SOIs is the method by which each LAFCO plans for the future.

Regulatory Authority

LAFCOs' regulatory authority resides in reviewing and approving or denying proposals to change the jurisdictional boundaries of cities and special districts.[6] Specifically, these types of boundary changes are commonly referred to as "changes of organization" include:

- Annexations;
- Detachments;
- City incorporations and disincorporations;
- Special district formations and dissolutions;
- Mergers;
- Consolidations;[7]
- Creation of subsidiary districts;
- Reorganizations, which combine two or more of these changes of organization in one proposal; and
- Exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district. (CKH Act, Sec. 56021)

Every change of organization (or reorganization) requires five, sometimes six, steps:

1. Initiation of proceedings;
2. LAFCO review and approval;
3. LAFCO conducts hearings and 30-day reconsideration period;
4. Protest proceedings;
5. City or county conducts election, if needed; and
6. Completion of proceedings and filing with the State.

Additionally, LAFCOs' regulatory authority includes overseeing the process for a city or special district to provide new or extended services by contract or agreement outside its jurisdictional boundaries only if the city or district first requests and receives written approval from the local LAFCO. In addition to the law under which they are governed,

[6] LAFCOs do not regulate boundaries for counties and some local government agencies, including school districts, community facilities districts (Mello-Roos), and community college districts.

[7] "Consolidation" is defined in Gov. Code Section 56030 as: the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district.

many LAFCOs have established local policies and procedures to support the efficient and effective processing of these changes of organization.

Planning Authority

LAFCOs' planning authority is carried out through the establishment and updating of SOIs as well as the preparation of comprehensive MSRs that analyze service or services within a designated geographic area.

Spheres of Influence

SOIs are established to identify the probable physical boundaries and service area of a local agency. Any person or local government may request an amendment or change to a SOI. State law requires that all changes of organization be consistent with the SOI independently established by the Commission for each city and special district. The statute further requires SOIs to be reviewed every five years and updated as conditions warrant.

With each SOI that is established, amended, or updated, LAFCOs are required to consider and prepare a written statement of its determinations with respect to the following factors codified in Government Code Section 56425:

(1) Present and planned land uses in the area, including agricultural and open-space lands.

(2) Present and probable need for public facilities and services in the area.

(3) Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) Existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(5) If a city or special district provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

Municipal Service Reviews

MSRs involve comprehensive reviews and regional studies on future growth and how local agencies are planning for their municipal services and infrastructure systems. These studies are prepared before or in conjunction with the establishment, review, or update of an SOI and are generally intended to inform in the areas of efficiency and affordability of infrastructure and municipal service delivery and assist LAFCOs in the review and initiation of changes of organization.

In accordance with Gov. Code Section 56430, with each MSR that is prepared, LAFCOs are required to prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) The location and characteristics of any disadvantaged unincorporated communities (DUCs) within or contiguous to the affected sphere of influence.

(3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the affected sphere of influence.

(4) Financial ability of agencies to provide services.

(5) Status of, and opportunities for, shared facilities.

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

(7) Any other matter related to effective or efficient service delivery, as required by commission policy.

1.2 Local Agency Formation Commission of Orange County

The Local Agency Formation Commission of Orange County (OC LAFCO) is authorized by the California Legislature to maintain orderly boundaries for the County's 34 cities and 34 independent and dependent special districts through SOIs and MSRs. Since its creation, the Commission has formed more than nine cities, approved several changes of organization and reorganization involving cities and special districts and encouraged orderly development through the establishment of agency SOIs and preparation of numerous studies. OC LAFCO has also provided proactive leadership on efficient government through its implementation of the CKH Act and its web-based resources. In addition to State law, the Commission's authority is guided through adopted local policies and procedures that assist in the implementation of the provisions of the CKH Act and consideration of the local conditions and circumstances of Orange County.

Commission Composition

OC LAFCO is comprised of 11 commission members, with seven serving as regular members and four serving as alternate members. LAFCO members, called *commissioners,* are a composite of three county supervisors appointed annually by the Board of Supervisors, three city council members appointed by the City Selection Committee (made up of the 34 city mayors), three independent special district members appointed by the Special District Selection Committee (made up of the Board Presidents of the 27 independent special districts), and two representatives of the general public appointed by the Commission. The OC LAFCO commissioners as of **November 2024** are shown in Table 1.

Table 1: Orange County LAFCO Commission Roster (as of November 2024)

Commissioner	Appointing Authority	Current Term
Donald P. Wagner, Chair *County Member*	Board of Supervisors	2022-2026
Wendy Bucknum, Vice Chair *City Member*	City Selection Committee	2024-2028
Douglass Davert, Immediate Past Chair *Special District Member*	Independent Special District Selection Committee	2022-2026
James Fisler *Special District Member*	Independent Special District Selection Committee	2024-2028
Derek J. McGregor *Public Member*	Commission	2022-2026
Peggy Huang *City Member*	City Selection Committee	2024-2026
Vacant ***County Member***	Board of Supervisors	
Alternate Members		
Kathryn Freshley *Alternate Special District Member*	Independent Special District Selection Committee	2022-2026
Carol Moore *Alternate City Member*	City Selection Committee	2024-2028
Lou Penrose *Alternate Public Member*	Commission	2021-2025

Commissioner	Appointing Authority	Current Term
Vacant ***Alternate County Member***	Board of Supervisors	
OC LAFCO Staff Carolyn Emery, ***Executive Officer*** Scott Smith, ***Legal Counsel***		

In accordance with the CKH Act, while serving on the Commission, all commission members shall exercise their independent judgement on behalf of the interests of residents, property owners, and the public as a whole. All members serve four-year terms and there are no term limits.

Commission Meeting and Contact Information

The regular meetings of the Commission are held on the second Wednesday of the month at 8:15 a.m. The meetings are conducted in the Hall of Administration – Planning Commission Hearing Room located at County Administration North (CAN) First Floor Multipurpose Room 101, 400 W. Civic Center Drive, Santa Ana, 92701.

The OC LAFCO administrative offices are located at 2677 North Main Street, Suite 1050, in the City of Santa Ana, 92705. Commission staff may be reached by telephone at (714) 640-5100. The agency's agendas, reports, and other resources are available online at www.oclafco.org.

CHAPTER TWO | AGENCY OVERVIEW

2.0 Purpose of Municipal Service Review

Pursuant to the CKH Act, OC LAFCO will conduct service reviews in conjunction with SOI updates on or before January 1, 2008, and every five years thereafter. OC LAFCO has completed three cycles of MSRs; the first round completed between 2005 and 2008, the second round completed between 2008 and 2013, and the third round completed between 2013 and 2018. The fourth cycle is currently ongoing and expected to be completed near 2025. An MSR for OCWD was last conducted in 2013. This MSR and SOI update is being conducted as part of the fourth cycle of updates.

On October 4, 2022, the District filed an application with OC LAFCO to prepare a study focused on the potential consolidation of OCWD and Municipal Water District Orange County (MWDOC). OCWD's application was submitted following a report prepared by the 2021-2022 Orange County Grand Jury entitled, *Water in Orange County Needs 'One Voice'* (June 22, 2022).

In light of OCWD's application, this MSR process includes a comprehensive review of OCWD in accordance with the state mandate and a feasibility analysis of the potential consolidation of OCWD and MWDOC. Notably, the most recent five-year cycle MSR for MWDOC was conducted and approved by the Commission in 2020. That MSR did not, however, include a discussion of potential consolidation of the agencies.

Therefore, this MSR report includes a comprehensive MSR update, an SOI update, and a feasibility study of consolidation of OCWD and MWDOC. Adoption of this MSR by the Commission does not trigger an action of governmental reorganization by OC LAFCO, OCWD, or MWDOC.

2.1 Agency Overview

OCWD was created in 1933 by a special act of the California Legislature ("OCWD Act") that granted broad powers to protect the water supply of the Coastal Plain of Orange County Groundwater Basin ("OC Groundwater Basin" or "Basin") (**Figure 1 – Orange County Groundwater Basin**). The California Department of Water Resources (DWR) identifies it as Basin No. 8-001. OCWD is charged with managing the Basin in order for the 19 retail water suppliers ("Groundwater Producers") that have wells in the basin to serve approximately 2.44 million northern and central Orange County residents with a reliable and sustainable water supply. As of 2023, 85 percent of the annual water demand of the Groundwater Producers is supplied with water from the Basin.

The Basin is not adjudicated. Adjudicating a groundwater basin is a lengthy and expensive endeavor to have a court define each pumper's water rights. The groundwater basins in the upper Santa Ana River Watershed along the river in San Bernardino and Riverside Counties were all adjudicated by 1970. However, the early leaders of OCWD ("Committee of Twelve") collectively agreed in the 1950s, during a housing boom with wells drying up, that approaching the water rights as a group, instead of individuals would make it possible to manage and replenish the basin so that all had more water. In addition, these leaders concluded that "equitable financing for importing water to replenish the groundwater basin was the most practical solution to having adequate water for landholders and inhabitants alike" (OCWD 2014, pp. 24-25).

This common pool approach without adjudication continues today. Water surplus in wet years is shared the same as shortage in dry years. Every pumper has an equal right to pump as much water as can be beneficially used, but that each has the obligation to pay the costs of replacing what was extracted (OCWD 2014, p. 25).

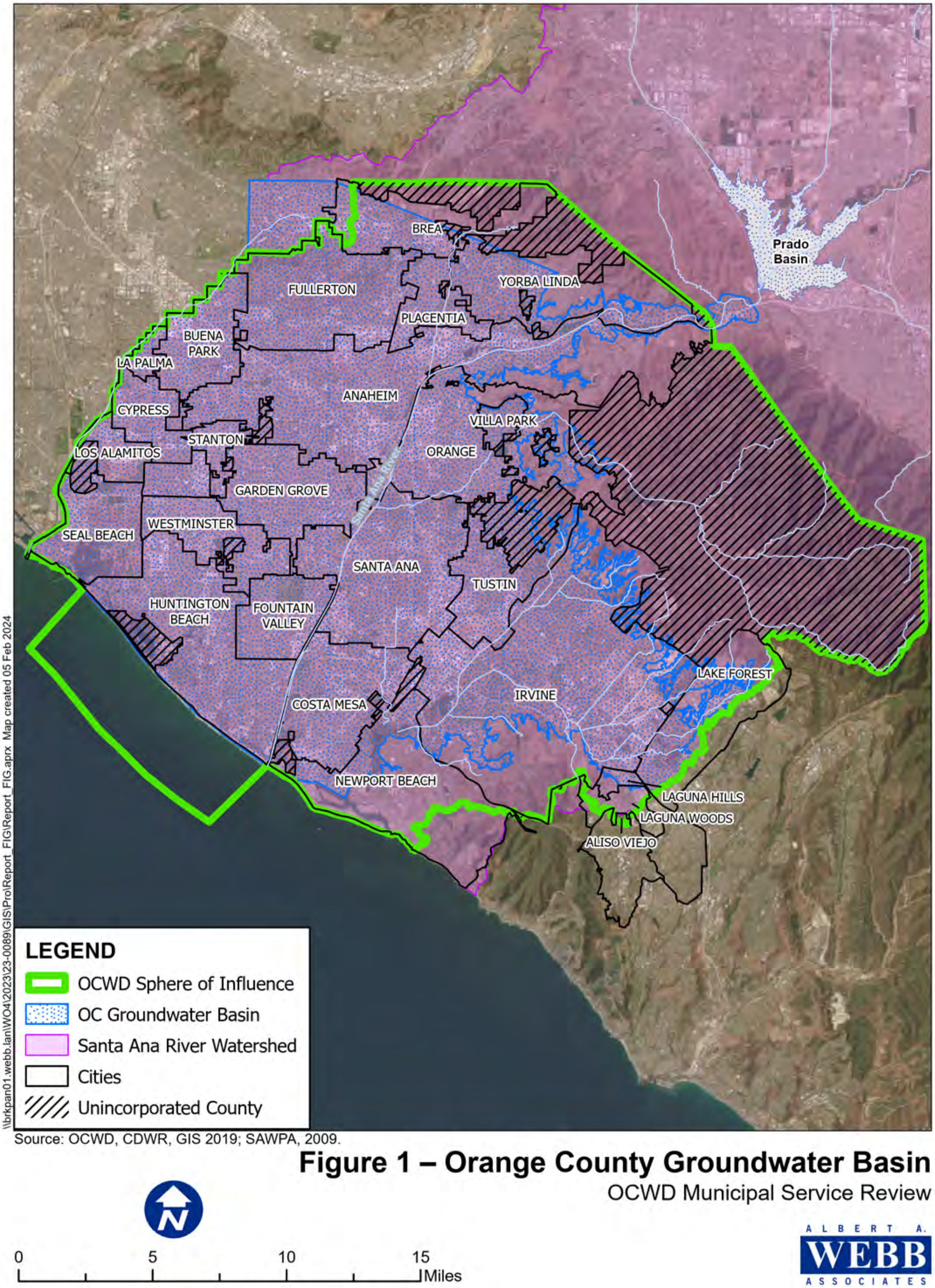

Figure 1 – Orange County Groundwater Basin
OCWD Municipal Service Review

MISSION STATEMENT

OCWD's mission is to provide a reliable, high-quality water supply in a cost-effective and environmentally responsible manner.

The Cities of Anaheim, Fullerton, and Santa Ana are pumpers in the Basin as well as independent member agencies of The Metropolitan Water District of Southern California (MWD), which provides imported water from the State Water Project (Sacramento/San Joaquin Delta) and the Colorado River Aqueduct. The Cities of Anaheim and Santa Ana joined MWD when it formed in 1927 and Fullerton joined in 1931. By 1951, other cities desired to join MWD to access imported water. Because MWD had a policy that cities could join as geographic groups, the cities formed MWDOC. MWDOC acts as a water wholesaler and pass-through agency representing 27 of Orange County's water suppliers (except Anaheim, Santa Ana, and Fullerton) so that they have the ability to purchase MWD imported water and have representation on the MWD Board of Directors.

OCWD is governed by the OCWD Act (Stats. 1933 c. 924, p. 2400). "Managing the basin" as mandated by the OCWD Act generally consists of groundwater monitoring, wastewater reclamation, monitoring surface flows of the Santa Ana River at and below Prado Dam, groundwater recharge projects and seawater barrier systems as well as supporting the 19 Groundwater Producers with funding for groundwater treatment systems, laboratory facilities for water testing, and advocacy at state and federal venues.

VALUES STATEMENT

OCWD's Board of Directors and staff are committed to serving the people of Orange County. Solid science and state-of-the-art technologies guide their decisions. OCWD is committed to sound planning and investment, high standards for water reliability, exceptional water quality, environmental stewardship, sound financial management, and transparency.

As of 2023, the OCWD sphere of influence (SOI) totals 569 square miles, or approximately 71 percent of the entire county. The District's Service Area is 430 square miles and includes 52 square miles of ocean, as shown on **Figure 2 – OCWD Service Area.**

Source: OCWD GIS, Feb.15, 2024

Figure 2 - OCWD Service Area

OCWD Municipal Service Review

0 5 10 15 Miles

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As shown on Figure 2, three small gaps or holes in the Service Area that are located within the water service area of the City of Newport Beach have been identified. These are likely inadvertent mapping errors but further research would be needed. The northerly Service Area gap is partly street right-of-way and partly owned by The Irvine Company; the middle gap does not have an assigned parcel number; and the southerly gap touches on six different parcels, three of which are owned by City of Irvine, and three are owned by a property management group. OCWD has indicated that they have no reason not to include these areas into their official Service Area and recognizes further research would need to be done prior to submitting an annexation application to OC LAFCO.

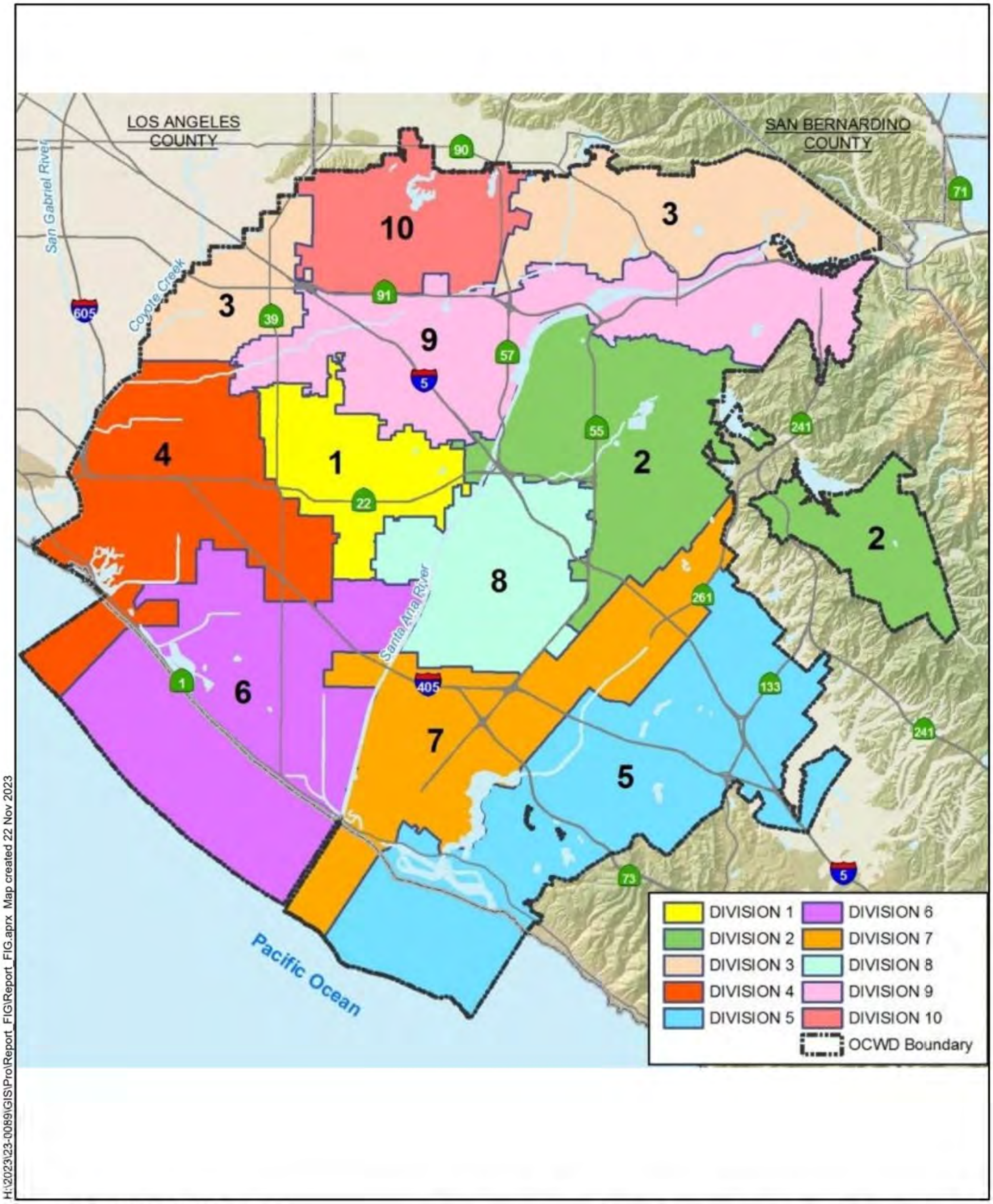
The OCWD Act established that the District boundary may not extend beyond the limits of the Santa Ana River Watershed and all areas within the OCWD must also be included within the service area of MWD.[8] Governance is provided by a 10-member Board of Directors that represent the 10 Divisions of the District. The Cities of Anaheim, Fullerton, and Santa Ana each appoint one City Councilmember to the OCWD Board and the other seven Divisions are represented by elected individuals (**Figure 3 – OCWD Directorial Divisions**). All directors serve four-year terms. A summary profile of OCWD is provided in **Table 2 – Agency Profile** (next page).

[8] The City of La Habra is technically within the Santa Ana River Watershed and the OC Groundwater Basin but is not in OCWD's sphere of influence. City of Brea is partly in the SOI. This is because La Habra and Brea's portion of the Basin is hydrologically separate from OCWD's portion and the Cities have managed it as such; specifically, OCWD's surface water recharge efforts do not replenish La Habra/Brea's part of the Basin and instead, groundwater flows from La Habra/Brea into the OCWD area. The Cities of La Habra and Brea have formed the City of La Habra Groundwater Sustainability Agency (GSA) and at one time requested to DWR for an internal jurisdictional boundary modification to remove the cities from the OC Basin and create a new groundwater basin, but DWR has not issued a decision.

Table 2: Agency Profile

District	Orange County Water District
Website	www.ocwd.com
Agency Type	Special District
Address	18700 Ward Street, Fountain Valley, CA 92708
Date Formed	1933
Employees (full-time)	226.5, as of July 1, 2023
Key Services	Provide potable and non-potable groundwater supply to 13 cities, five retail water agencies, and one investor-owned water utility ("19 Groundwater Producers").
Service Area	
Member Agencies ("19 Groundwater Producers")	Cities of Anaheim, Buena Park, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, La Palma, Newport Beach, Orange, Santa Ana, Seal Beach, Tustin, and Westminster East Orange County Water District, Golden State Water Company, Irvine Ranch Water District, Mesa Water District, Serrano Water District, and Yorba Linda Water District
Service Area	Land Portion: 378 square miles Ocean Portion: 52 square miles
Sphere of Influence	569 square miles
Land Uses	Residential, commercial, industrial, institutional, and open space
Population Served	2,387,383 persons, as of January 1, 2023[a]
Last MSR Conducted	February 13, 2013
Governance	
Local Representation	Ten-member Board of Directors, with each director representing a Division and elected to a four-year term by voters within their Division, except for the Cities of Anaheim, Fullerton, and Santa Ana who appoint a City Councilperson to serve on the Board.
Board Compensation	Effective October 2023, Board members are compensated $330.75 per meeting for up to ten meetings per month. Board members are eligible for medical, dental, vision, and life insurance benefits, and participation in 401(a) and 457 plans.
Board Meetings	Monthly on the 1st and 3rd Wednesday at 5:30 p.m. Meetings are held at the District office and open to the public.
Agency Contact	John Kennedy, P.E., General Manager

[a] From Center for Demographic Research, California State University, Fullerton.



Source: OCWD GWMP 2015 Figure 1-6

Figure 3 – OCWD Directorial Divisions

OCWD Municipal Service Review

Not to Scale

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CHAPTER THREE | OCWD MUNICIPAL SERVICE REVIEW

3.0 MSR History for OCWD

OC LAFCO has prepared the following past studies and updates for OCWD.

- First Cycle of MSRs: September 2006
    - No significant issues were noted during this MSR for OCWD. The Service Area population was projected by the MSR to grow modestly over the next 20 years and does not appear to have negatively impacted the District's service capacity. The District's infrastructure was adequate to address future needs including increased water demand from infill development and annexation of new territory. The District had no identified financial constraints. The District collaborated and shared facilities for water resource management.
    - Six government structure options were discussed in the 2006 MSR: (1) maintain the status quo; (2) annexation of lands within Anaheim; (3) annexation of lands within Irvine Ranch Water District (IRWD); (4) annexation of lands within Yorba Linda Water District (YLWD); (5) reduce the SOI to exclude areas that are outside the MWD service area; and, (6) merge OCWD and MWDOC. The MSR acknowledged that a merger of OCWD and MWDOC had not been considered in the past due to the differing missions of the agencies and was "not considered feasible" for reasons including: "implementing it would take an act of legislation because it involves changing OCWD's principal act; a merging of these two agencies would not necessarily achieve great efficiencies in overall management of water resources in Orange County; and keeping these two agencies separate maintains an important check and balance system, preventing one agency from having control over water supply for the entire County." Because of the necessary review required into the potential annexation of the aforementioned areas into OCWD, the SOI update was delayed. Notably, the 2006 MSR did not include a feasibility study and the idea for merging OCWD and MWDOC was generated through a stakeholder group process.
    - SOI Update: May 14, 2008
        - A SOI update for OCWD was approved in 2008 resulting in several changes in the District's SOI. This was a continuance of the 2006 MSR. As a result, the SOI aligned closer to the Santa Ana River Watershed boundary in the southern part of the District. The Laguna

Coast Wilderness Park was removed from the SOI since it drains away from the OC Groundwater Basin and portions of El Toro Water District were also removed. The SOI was enlarged into the ocean and finally, portions of the City of Brea were added to the SOI because in the event surface water or groundwater began to flow into the OC Groundwater Basin from Brea and the City began pumping that water, then OCWD might want to annex Brea to protect water rights within the watershed and manage the OC Groundwater Basin more effectively.

- The areas included in this annexation proposal, however, were already wholly contained within OCWD's original 1977 SOI and were historically designated as "the probable physical boundaries and service area of" OCWD, according to Gov. Code Section 56076.

- Second Cycle of MSR: November 12, 2008
  - The Commission reconfirmed the MSR and SOI determinations of OCWD from the first cycle of MSRs.
- Third Cycle of MSR: February 13, 2013
  - The Commission reconfirmed the MSR and SOI determinations of OCWD from the second cycle of MSRs.
- On May 14, 2014, OC LAFCO approved the Anaheim/IRWD/YLWD annexations to OCWD (DA 13-13) that were initially contemplated in the September 2006 MSR. This annexation increased the Service Area by 23 square miles and increased the District boundary at that time by 7 percent. OCWD entered into Annexation Agreements with Anaheim/IRWD/YLWD pursuant to OCWD's annexation policy. Development of the Annexation Agreements was collaborative in a facilitated process with OCWD and the 19 Groundwater Producers. The goal of the Annexation Agreements is to balance the benefit of extending OCWD oversight and management to new territory within the OC Groundwater Basin with the potential financial impacts to other Producers. Several notable components of the Annexation Agreements are noted below:
  - Included within the agreement terms was a 10-year moratorium on any future annexations by Anaheim, IRWD, and YLWD beginning October 2013, which expired in October 2023.
  - YLWD and IRWD were both restricted to a BPP of 70 percent regardless of the rate set annually by OCWD; YLWD for 5 years and IRWD for 10 years. The IRWD restriction expired in October 2023.

- o Anaheim and IRWD are required to send stipulated quantities of sewage flows to the Orange County Sanitation District (OC San) treatment facilities for the following periods: 50 years for Anaheim (2013-2063) and 20 years for IRWD (2013-2033).
- o Payment by Anaheim, IRWD, and YLWD of the annual annexation charge to OCWD in the amounts of $110,000/year, $395,000/year, and $290,000/year, respectively. These funds go to the OCWD general fund, water purchased for basin recharge, and programs to increase recharge.

3.1 Growth and Population Projections

OCWD is a Sponsor of the Center for Demographic Research (CDR) at California State University, Fullerton. Sponsors of CDR receive demographic data for their applicable geographic areas, which is especially important for entities like OCWD that do not fully align with city or county boundaries. Because OCWD does not have land use authority, it relies on the cities and county within its Service Area to provide CDR accurate, timely, and thorough data on growth projections. The demographic data provided herein comes from the CDR *2023 Orange County Progress Report,* the U.S. Census Bureau including American Community Survey and California Department of Finance. OC LAFCO is a Contributing Partner to CDR and uses their services for OC LAFCO MSR reports.

According to the 2020 Census, the OCWD Service Area includes approximately 2.44 million Orange County residents. Projections by CDR of population, housing, and employment within the OCWD existing Service Area are shown in Table 3. The Service Area population is projected to reach a high of approximately 2.55 million residents by 2045, which is an increase of approximately 4.5 percent from 2020.

Table 3: County and District Growth Projections, 2019-2050

		2019	2025	2030	2035	2040	2045	2050	Overall Change
Population	OCWD	2,441,587	2,468,968	2,505,669	2,529,630	2,545,747	2,550,830	2,544,170	+4.2% +102,583
	County	3,196,231	3,239,474	3,287,447	3,327,150	3,345,665	3,343,718	3,327,124	+4.1% +130,893
Households	OCWD	830,225	867,141	900,711	922,873	938,187	955,512	973,335	+17.2% +143,110
	County	1,124,849	1,176,165	1,220,390	1,252,783	1,271,438	1,290,931	1,311,738	+16.6% +186,889
Employment	OCWD	1,470,235	1,470,235	1,537,772	1,574,038	1,603,116	1,623,409	1,643,992	+11.8% +173,757
	County	1,805,476	1,843,470	1,897,773	1,941,915	1,976,791	1,997,885	2,018,954	+11.8% +213,478

Source: OCP-2022 (Center for Demographic Research, Cal State Fullerton)

The most recent OCWD Groundwater Management Plan is dated 2015. The District repurposed the plan in 2017 (and renamed as the "Basin 8-1 Alternative") to comply with the Sustainable Groundwater Management Act of 2014 (SGMA). The projected population estimate used for the Groundwater Water Management Plan/Basin 8-1 Alternative is consistent with what is presented in Table 3, above and states, "Population within OCWD's Service Area is expected to increase from approximately the current 2.38 million to 2.54 million by 2035…" (Basin 8-1 Alternative, p. 10-10).

The city with the highest population growth rate during 2022 within all of Orange County was the City of Brea (2.6 percent), followed by City of Placentia (2.3 percent) and City of Los Alamitos (2.0 percent) (OCP, p. 189). All three cities are within OCWD's SOI and Placentia and Los Alamitos are also within the Service Area.

Since 2006 when the first cycle MSR report for OCWD was prepared, the District has not observed adverse effects of population growth on its ability to perform services. In fact, groundwater pumping has declined over this time period, as shown in Table 4, which is the result of several factors including water conservation efforts during droughts, and water quality constraints to pumping (e.g., PFAS contamination). Future groundwater pumping, however, is projected to increase, as shown in Table 4.

Table 4: Groundwater Pumping, 2013-2025

Fiscal Year Ending	Groundwater Pumped in OCWD (AF)[(a)]	Percentage Change in Groundwater Pumping from Prior Year
	Actual	
2013	309,295	-
2014	330,782	6.9%
2015	305,259	-7.7%
2016	277,090	-9.2%
2017	301,637	8.9%
2018[(b)]	236,916	-21.5%
2019	303,496	28.1%
2020[(b)]	277,195	-8.7%
2021	281,793	1.7%
2022	256,921	-8.8%
2023	245,210	-4.6%
Average Annual Percentage Change in Groundwater Pumping		**-1.5%**
	Projected[(c)]	
2024	280,000	14.2%
2025	292,000	4.3%

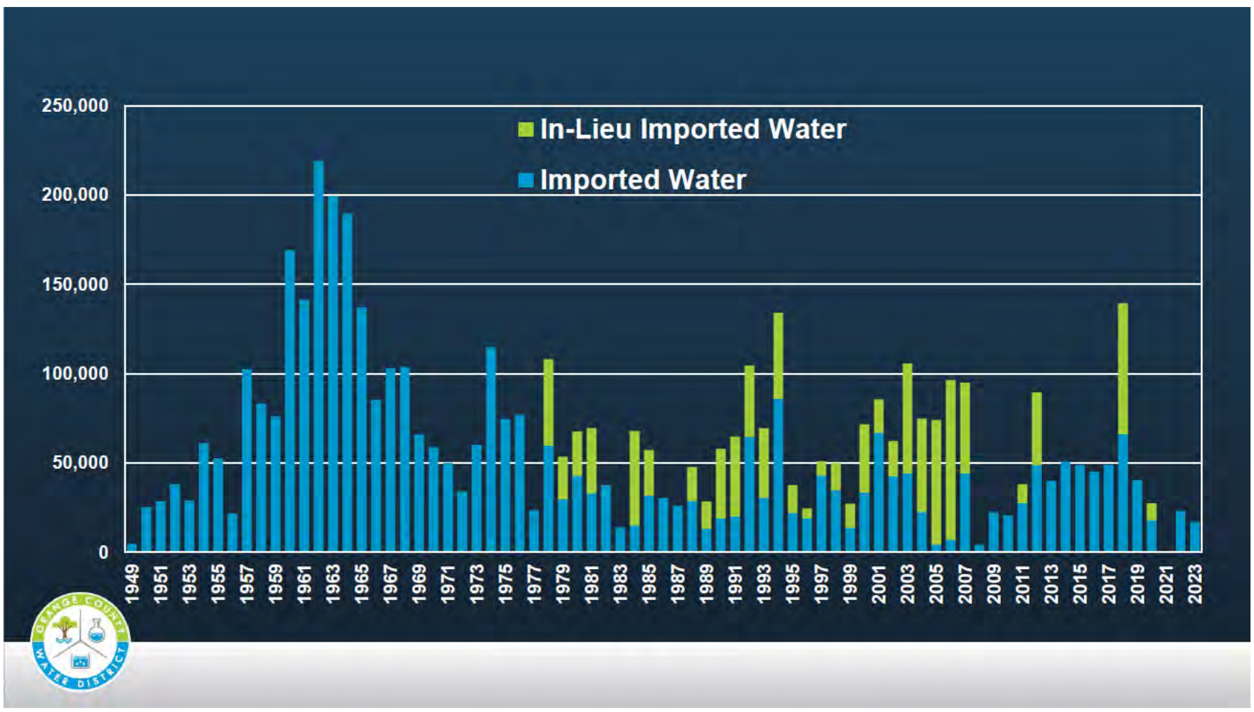
Source: *Table 1: Historical Groundwater Production Within OCWD*, *2021-2022 Engineer's Report.* Values exclude In-Lieu Program water, MWD Groundwater Storage Program extractions, and any groundwater used for the Talbert Barrier.
(a) For non-irrigation and irrigation uses, where irrigation is for agricultural, horticultural, or floricultural crops and for pasture grown for commercial purposes.
(b) In-Lieu Program water supplies were available and used to decrease groundwater pumping in FY 2017-2018 and FY 2019-2020.
(c) Source: *Table 5: Water Demands Within OCWD, 2022-2023 Engineer's Report.* Projected assuming average hydrology. Includes BEA-exempt groundwater pumped pursuant to Section 38.1 of the OCWD Act. However, that volume is not included in calculations of a projected BPP.
AF = acre-feet.

OCWD's In-Lieu Program brings additional treated imported water supplies via MWDOC (when they are available for purchase) for Producers to use. Producers are asked to turn off their wells and take imported treated water in lieu of pumping groundwater. OCWD will pay the 19 Groundwater Producers the incremental additional cost of taking imported water versus groundwater to make the cost of this water equivalent to groundwater (2015 OCWD Groundwater Management Plan (GMP), p. 5-11). This supply source is not available consistently, as noted in Table 4 (i.e., available in FY 2017-2018 and FY 2019-2020).

The source of water for the In-Lieu Program is different than supplemental replenishment water available for purchase from MWD via MWDOC. There are several types of water available from MWD: treated (potable) or untreated (non-potable), and uninterruptible or interruptible. Interruptible water can be shut-off, hence why it is cheaper than uninterruptible water which is not subject to being shut-off. Uninterruptible treated or untreated water is also known as "full-service" water that can be used for domestic and municipal uses and OCWD uses it for groundwater recharge. Interruptible in-lieu water from MWD is generally no longer available unless it is provided under the terms of a Cyclic Program agreement.[9]

MWDOC charges an annual capacity charge from OCWD (in addition to all other member agencies) that is based on the rate of MWD imported water used between May 1 and September 30 of each year. There is no minimum amount that must be purchased. The capacity charge is paid over the following three years. If no imported water from MWDOC is used during this five-month period, then no capacity charge is applied. OCWD's purchases of imported water through MWDOC for replenishment of the Basin are shown in Chart 1. In-Lieu Water, which is also imported water from MWDOC, is identified in the years it was available.

Chart 1 – OCWD Imported Water Purchases, 1949-2023 (acre-feet)



[9] Cyclic Program agreements are between MWD and member agencies for groundwater or surface water storage or pre-deliveries within MWD's service area. (MWD, *FY 24-25 Rate Structure Administrative Procedures Handbook,* p. 8, located at https://www.mwdh2o.com/media/gzboneuu/fy24-25-rate-structure-administrative-procedures-handbook.pdf)

Some Producers meet 100 percent or more of their annual water demands from groundwater, while others pump well below the BPP with much smaller demand for groundwater, so it is difficult to correlate the demand for groundwater supplies from the whole OCWD Service Area with changes in the population. What can be certain is that groundwater pumping has and will continue to vary from year to year, as shown in Table 4. Because the population of the District is expected to increase (Table 3), Producer's demand for groundwater supplies will assumably increase, on the whole.

Given that OCWD has consistently indicated in past MSR and SOI Updates that population growth is expected to have minimal effect, if any, on the ability to provide water service, the reader may question the District's investment of over $900 million to expand the treatment capacity of the District's Ground Water Replenishment System (GWRS) in order to put more local, recycled water back into the basin if increased demands are not expected; or why there is investment in capturing more water at Prado Dam using the new Forecast-Informed Reservoir Operations (FIRO) management strategy. OCWD has indicated these projects are not to address future growth per se, but to increase the District's ability to capture more local water for the 19 Groundwater Producers and increase the BPP for the existing customer base so that less imported water, which is more expensive than groundwater and less reliable, has to be brought into the Basin to meet water demands. For example, the District estimates in WY 2024-2025 the estimated cost for one AF of groundwater from the Basin is $1,009 compared to the estimated cost of treated, uninterruptible supplemental water is $1,380 per AF (OCWD 2024, p. 25). OCWD passes on cost-savings to the 19 Groundwater Producers in the form of a reduced RA when less imported water has to be purchased by the District.

The OCWD Act does not dictate the amount of water that can be pumped from the OC Groundwater Basin. But OCWD attempts to influence pumping rates in the Basin primarily through how it sets the Basin Production Percentage (BPP) for Producers each year. The BPP is defined in the OCWD Act as, "…the ratio that all water to be produced from groundwater supplies within the district bears to all water to be produced by persons and operators within the district from supplemental sources as well as from groundwater within the district." The origin of the BPP begins with attempts by the District in the 1960s to mitigate low groundwater levels that had caused shifts in the aquifer and land subsidence resulting in seawater intrusion. Even as groundwater levels recovered, the seawater continued to flow inland and new communities like Fountain Valley were likely to return to swamp land if groundwater continued to rise. The BPP and Basin Equity Assessment (BEA) were then established to influence the quantities of groundwater pumping throughout the Basin (OCWD 2014, p. 29).

All groundwater pumping pays the Replenishment Assessment (RA) which is currently $344/af for FY2024-25. Non-agricultural groundwater pumping (such as occurs by the 19 Producers) also pays what is called the Additional Replenishment Assessment (ARA) which is also set at $344/af for FY2024-25. So the total combined assessment paid by the 19 Producers is $688/af while an agricultural groundwater user only pays $344/af. For convenience in this report the combined assessment paid by the 19 groundwater producers will be referred to as the RA.

The BPP is established each April by the OCWD Board of Directors and goes into effect each July for all Producers that use more than 25 AF per WY. For example, if the BPP is set at 75 percent, then the Producers can pump 75 percent of their water demand from the OC Groundwater Basin and only pay the RA. Calculating the BPP involves evaluating groundwater storage conditions, availability of recharge water supplies, and basin management objectives in order to divide projected groundwater supplies by projected total water demands to get the BPP. OCWD's stated goal is to set the BPP as high as possible to allow Groundwater Producers to sustainably maximize pumping and reduce their overall water supply cost by avoiding the purchase of imported water supplies that are more expensive (Basin 8-1 Alternative, p. 10-7).

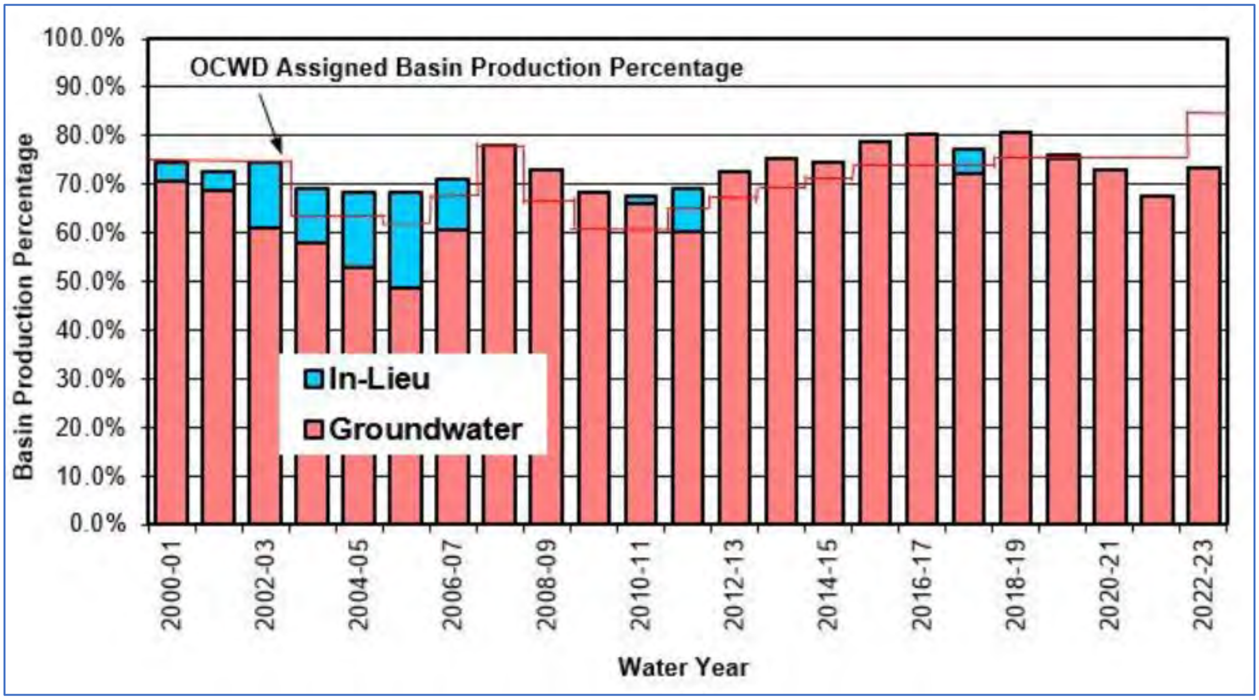
Groundwater pumping less than or equal to the BPP is charged the RA, and pumping more than the BPP is charged the RA plus the Basin Equity Assessment (BEA), which can be increased as needed by OCWD to further disincentivize pumping. Agricultural pumpers pay 50 percent of the RA rate.

The origin of the RA was to ensure everyone paid alike based on the amount of water pumped, regardless of when they started pumping (i.e., no special protections or reservations for newcomers). "Beginning in 1954, each pumper was required to register the city's well(s) with OCWD, maintain records of the amount withdrawn during the year, report that figure, and pay a tax (the RA) in proportion to the amount of water used" (OCWD 2014, p. 27). Furthermore, because the RA is calculated on how much was pumped the prior year and the costs to replenish it, the Producers are incentivized to consider how their efforts affect the groundwater supply.

In addition to the BPP, pumping rates in the Basin are influenced by the cost of the RA and keeping it less than the cost of an AF of treated, imported water. The BPP fluctuates periodically, as shown in Chart 2. The red line in Chart 2 is the assigned BPP established by OCWD each year and the columns represent the actual BPP achieved by the Producers (i.e., the percentage of their total water demands met with Basin groundwater). The columns combine the percentage of total water demand met with groundwater supplies plus the percentage of total water demand met with In-Lieu

Program water (i.e., In-Lieu Program water is when wells are turned off and imported water used instead). For example, during WY 2022-2023, OCWD increased the assigned BPP from 77 to 85 percent, but less pumping was realized with an actual BPP of 73.3 percent.. This graph shows when Groundwater Producers collectively pump more than or less than the assigned BPP .

Chart 2 – OCWD Assigned and Actual Basin Pumping Percentage, WY 2001-2023



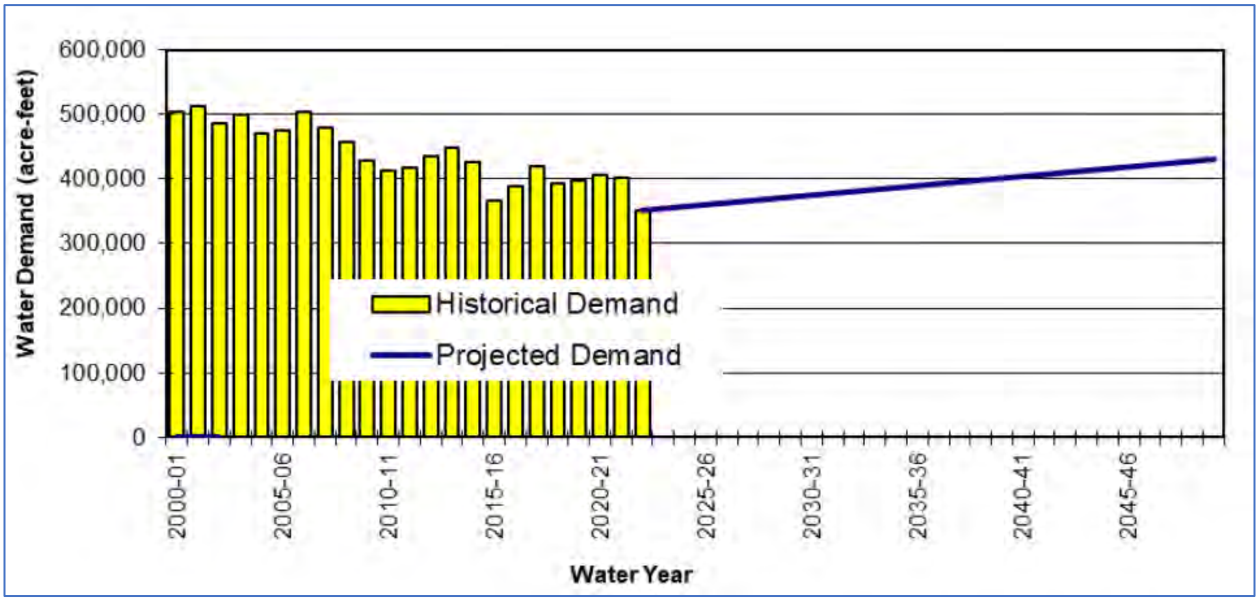
Excerpt from 2022-2023 Engineer's Report, p. 7.

As shown in Chart 2, in WY 2020-2021, 2021-2022, and 2022-2023 the actual water demand met with groundwater supplies was less than the BPP (or the assigned allowable amount of groundwater that could have been produced without incurring BEA). The years when In-Lieu water (imported water) was available and utilized are the same in Charts 1 and 2.

Although the OCWD Service Area and SOI have not reached the anticipated buildout, the District does not expect significant population growth for the foreseeable future based on population projections prepared by CDR as shown in Table 3. Furthermore, the District intends to match growth with effective water conservation efforts.

OCWD prepares an annual forecast of water demands in its Engineer's Report using population projections provided by CDR and each Producers' projections of total water demands. According to the 2022-2023 Engineer's Report, total water demands[10] may increase by 22.5 percent from 351,719 AF in WY 2022-2023 to 431,000 acre-feet per year (AFY) by 2050, an increase of approximately 79,281 AFY, or about 2,900 AF every year for 27 years. This is reflected in Chart 3. The 2050 projection includes future water conservation (reduction in water demand). As shown in Chart 3, the projected total water demand in 2050 is less than the total water demand of WY 2000-2001. OCWD staff believes these projections are high and is jointly working with the Municipal Water District of Orange County to prepare updated future water demand estimates.

Chart 3– OCWD Water Demands and Projections, WY 2001-2050



Excerpted graph from 2022-2023 Engineer's Report (page 21).

Meeting future water demands will not be met by groundwater supplies alone and will require a combination of water supply sources plus demand management (conservation). This may be why OCWD does not separate water supply projections by supply source because it is the totality of the supply and the ability to switch from one source to another that will meet water demands.

Water demands within OCWD Service Area are expected to be met over the planning horizon of this MSR analysis including the future increase in population, given the following factors: (1) the District's collaboration with CDR to proactively monitor

[10] Total water demands include the use of groundwater, MWD In-Lieu Program water, supplemental sources (imported water and Santiago Creek native water), and recycled water (which is not included within supplemental sources if originating from within the Santa Ana River watershed). Groundwater, supplemental water, and recycled water that is used by OCWD for groundwater recharge is excluded from total water demands.

demographic changes in the Service Area and in particular, population growth; (2) District projections accounting for future growth in each Producer's Service Area; and (3) the District's demonstrated ability to meet water demands in the past that were higher than current water demands.

3.2 Disadvantaged Unincorporated Communities (DUC)

The CKH Act defines a disadvantaged unincorporated community (DUC) as, "inhabited territory, as defined by Gov. Code Section 56046, or as determined by commission policy, that constitutes all or a portion of a "disadvantaged community" as defined by Section 79505.5 of the Water Code." The term, "inhabited territory" in Gov. Code Section 56046 means territory within which there resides 12 or more registered voters. "Disadvantaged Community" in Water Code Section 79505.5 is defined as "a community with an annual median household income that is less than 80 percent of the statewide annual median household income."

Senate Bill 244 (Wolk; effective January 1, 2012) imposed several new requirements with regard to DUCs. The Legislature found DUCs lack access to basic infrastructure, including but not limited to streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. The purpose of the new requirements was to include DUCs in the scope of MSR and SOI updates prepared by each LAFCO in order to avoid a situation where an agency might exclude a DUC from a future annexation or provision of key services, such as water and sewer. The CKH Act requires an MSR to include determinations regarding the present and probable need for public facilities or services related to water in any DUC that is within the existing OCWD sphere of influence.

There are approximately 125 square miles of unincorporated county land within OCWD's SOI. In addition, there are disadvantaged communities identified based on American Community Survey five-year estimates at the census block level. According to CDR, the most recently measured statewide annual median household income is $84,097, 80 percent of which is $67,277.60. When the two datasets are combined, there are 11 DUCs within OCWD's Service Area that meet these criteria totaling 0.85 square mile (541 acres), as shown on **Figure 4 – Disadvantaged Unincorporated Communities**. This is an increase in the number of DUCs from prior years.

The characteristics of each DUC are described below:

1. City of Anaheim Sphere of Influence

There are four neighborhoods that qualify as DUCs that are collectively referred to as the "Southwest Anaheim DUC." The DUCs total 192 acres and are generally located north of

Katella Avenue, west of Brookhurst Street, east of Magnolia Street, and south of Lincoln Avenue.

Although located outside of the City limits, water service and sewer service are provided by the City of Anaheim (Anaheim 2020 UWMP, p. 3-5). Solid waste disposal service for the DUCs is provided by the City through a contract with Republic Waste Services.

2. City of Stanton Sphere of Influence

There are two DUCs in the City of Stanton's Sphere of Influence; the first is 27 acres located at the northwest corner of Katella Avenue and Magnolia Street ("Mac/Syracuse DUC"), and the second is 34 acres located northeast of the intersection of Dale Avenue and Chapman Avenue ("Dale/Augusta DUC").

Water service to Mac/Syracuse DUC is provided by Golden State Water Company, which also serves the City of Stanton (Garden Grove 2020 UWMP, p. 3-3). Water service to Dale/Augusta DUC is provided by a combination of the City of Garden Grove and Hynes Estates Mutual Water Company.

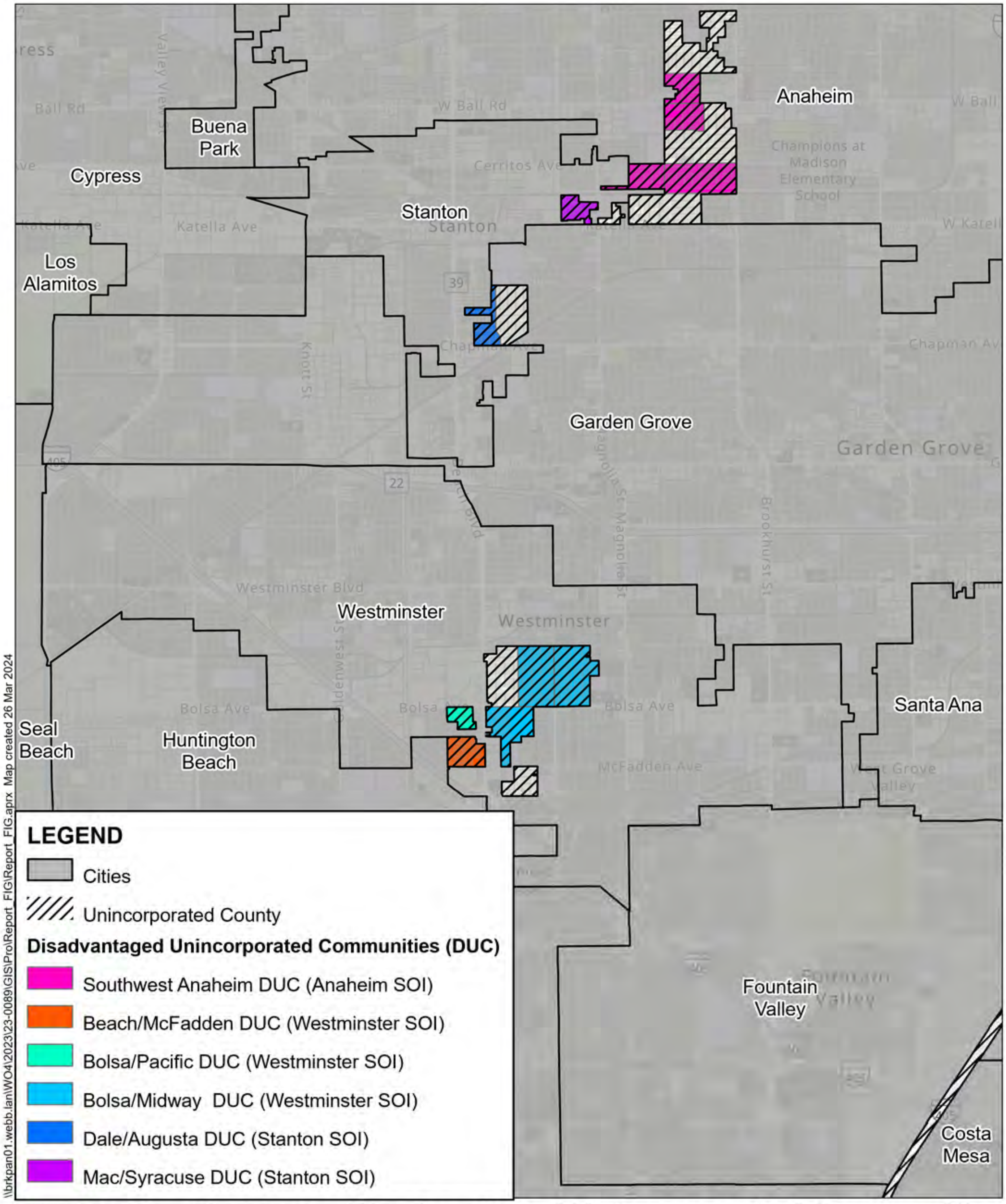
The Garden Grove Sanitary District provides wastewater services and Republic Waste Services provides solid waste disposal services to both DUCs (OCLAFCO 2023, p. 54).

3. City of Westminster Sphere of Influence

There are five DUCs in the City of Westminster Sphere of Influence and they collectively total 288 acres. Three DUCs are located east of State Route 39 (Beach Blvd.) and south of Westminster Boulevard, which are identified as the "Bolsa/Midway DUC." The remaining two DUCs are located south of Bolsa Avenue, north of McFadden Avenue, west of State Route 39, and are referred to as "Bolsa/Pacific DUC" and "Bolsa/McFadden DUC" (Figure 4).

Water service to Bolsa/Midway DUC is provided by a combination of the City of Westminster, Midway City Mutual Water Company, Eastside Water Association, and South Midway City Mutual Water Company. Water service to Bolsa/Pacific DUC and Bolsa/McFadden DUC is provided by the City of Westminster.

The Midway City Sanitary District provides sewer and solid waste collection services to all five DUCs and most other services are provided to the DUCs by the County (OCLAFCO 2023, p. 54).



Source: OC-LAFCO, ESRI OC

Figure 4 – Disadvantaged Unincorporated Communities

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0 2 Miles

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All of the DUCs identified herein are within OCWD Division 1 (Figure 3) and within the water service boundaries of their respective retail water suppliers. The City of Anaheim, Golden State Water Company, and City of Westminster are three of the 19 Groundwater Producers of OCWD. In addition, four private mutual water companies also serve portions of the DUCs in the spheres of influence for Stanton and Westminster (Figure 4): Hynes Estates Mutual Water Company, Midway City Mutual Water Company, Eastside Water Association, and South Midway City Mutual Water Company. OCWD identifies these water suppliers as “active small producers” and each pumped more than 25 AF of water from the Basin in WY 2022-2023. According to OCWD’s Monitoring Program records, these four small producers have active production wells that are monitored by OCWD for Title 22 (water quality) compliance (2015 OCWD Groundwater Management Plan, Appendix E).[11] OCWD also collects pumping records from small producers every 6 months to account for their pumping from the Basin.

Keeping up with changing regulations and aging infrastructure can be very challenging for small mutual water companies. The State Water Resources Control Board has funding and technical assistance available for mutual water companies ready to consolidate with a neighboring public water supplier. It is not the task of this study to assess whether any small water producers in OCWD’s SOI are having deficiencies in their provision of potable water to their customers. The provision of water service to customers in the DUC areas (i.e., water mains, laterals, and meters) is the responsibility of their respective retail water suppliers. However, the monitoring, record-keeping, and water testing efforts the District is providing to these small producers are services that benefit their customers’ ability to have water and, in turn, is part of the Basin management OCWD must perform to meet its charge. Nothing in the OCWD Act appears to limit the District’s ability to assist public or private water suppliers within its jurisdiction, including those in disadvantaged communities. Because OCWD monitors the water quality of the wells and accounts for the water pumped by both large and small producers, including those within the DUCs when making its water demand and water supply projections, and the District recharges the Basin for large and small producers to access regardless of where DUCs exist, OCWD is meeting its responsibility for the present and probable needs of potable water services for the DUCs. Nonetheless, it is recommended that OCWD make available to some reasonable degree its extensive technical resources when requested by mutual water companies that serve a DUC and need help to navigate funding opportunities for system improvements.

[11] Title 22 of the California Code of Regulations refers to Environmental Health regulations and contains the standards for water reclamation.

3.3 Capacity and Adequacy of Public Facilities and Services

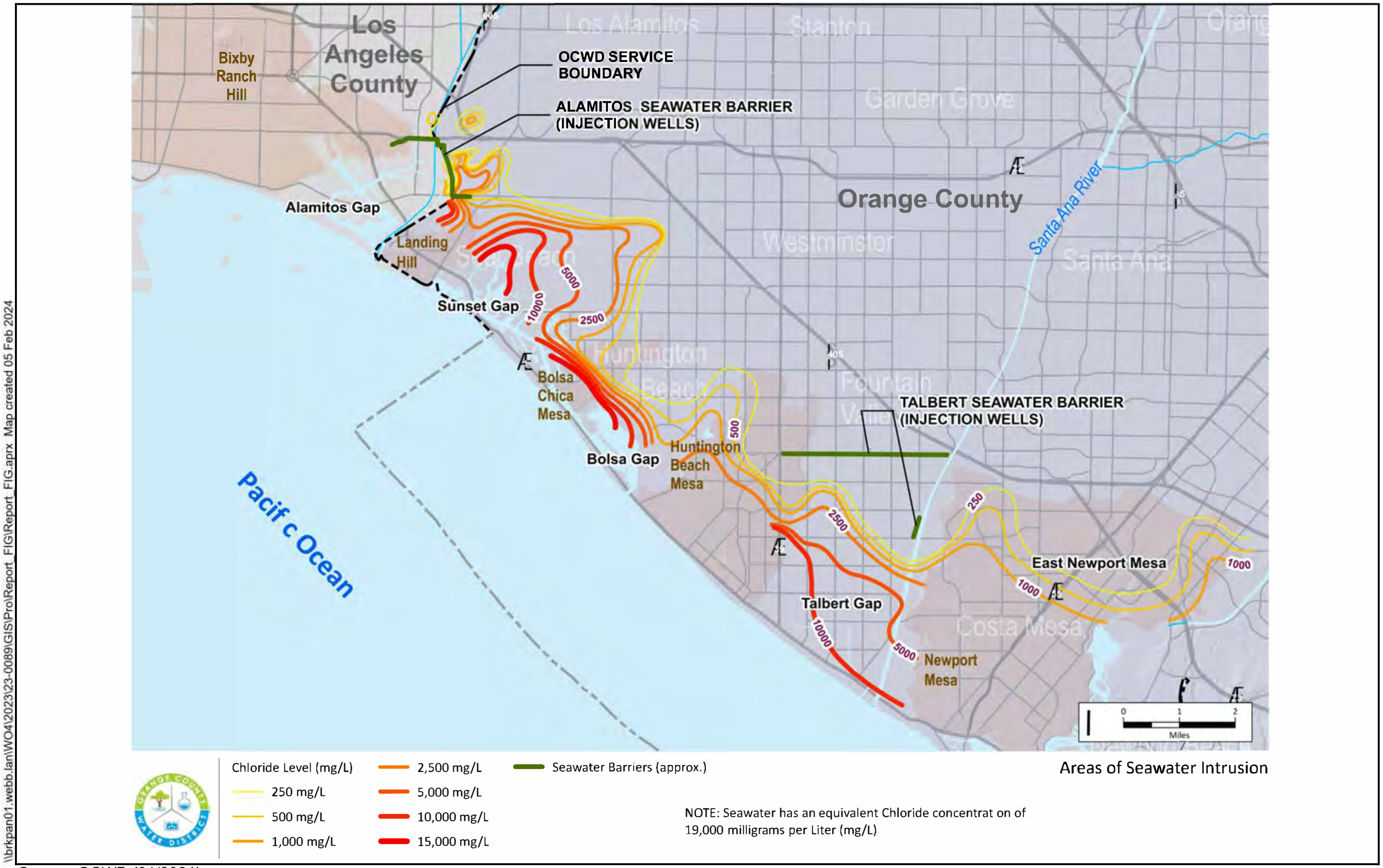
OCWD is tasked with providing the public service of sustainably managing the Basin as a water supply source for the groundwater producers within its Service Area. The Basin covers approximately 350 square miles in north and central Orange County and extends 4,000 feet at its deepest point (Basin 8-1 Alternative, p. 2-3). There are three major aquifer systems in the OC Groundwater Basin. They are referred to as Shallow Aquifer (closest to the surface), Principal Aquifer, and Deep Aquifer (farthest from the surface).

Over 90 percent of groundwater pumping occurs from wells that are pumping from the Principal Aquifer at depths between 200 and 1,300 feet. The Deep Aquifer system extends up to 4,000 feet below ground surface. Natural organic material from ancient, buried plants and wood gives the water in the Deep Aquifer an amber tint and a sulfur odor. The depth and presence of amber colored groundwater in some coastal areas hinders pumping from the Deep Aquifer system. (Basin 8-1 Alternative, p. 2-3) Although this water is of high quality, its color and odor produce negative aesthetic qualities that require treatment before use as drinking water. (*ibid*, p. 11-7) Mesa Water District and IRWD have water treatment facilities to treat amber-colored groundwater (*ibid*, p. 11-8).

The volume of water in the Basin when it is full is estimated by OCWD staff at approximately 66 million AF (*ibid*, p. 10-1); however, up to 500,000 AF is considered available water in storage. OCWD's current policy of maintaining a groundwater storage level of up to 500,000 AF below full was established based on completion of a comprehensive hydrogeological study of the Basin in 2007 (*ibid,* p. 10-2).[12] OCWD determined that pumping more than 500,000 AF for more than an emergency, short-term instance, would incrementally result in undesirable effects such as seawater intrusion, land subsidence, increased pumping costs, and higher potential for upwelling of amber-colored groundwater from the Deep Aquifer (*ibid,* p. 10-1).

Seawater intrusion has been well-documented along coastal Orange County since the early 1900s. OCWD has operated two seawater barriers using injection wells to control seawater intrusion since 1965 and 1975, respectively. The current extent of intrusion and locations of the barriers are shown in **Figure 5 – Areas of Seawater Intrusion**. As the groundwater drops and the amount of freshwater stored in the Basin decreases, the hydraulic force pulling seawater intrusion into the Basin worsens.

[12] Orange County Water District, *Report on Evaluation of Orange County Groundwater Basin Storage and Operational Strategy*, February 2007.



Source: OCWD (01/2024)

Figure 5 - Areas of Seawater Intrusion

OCWD Municipal Service Review

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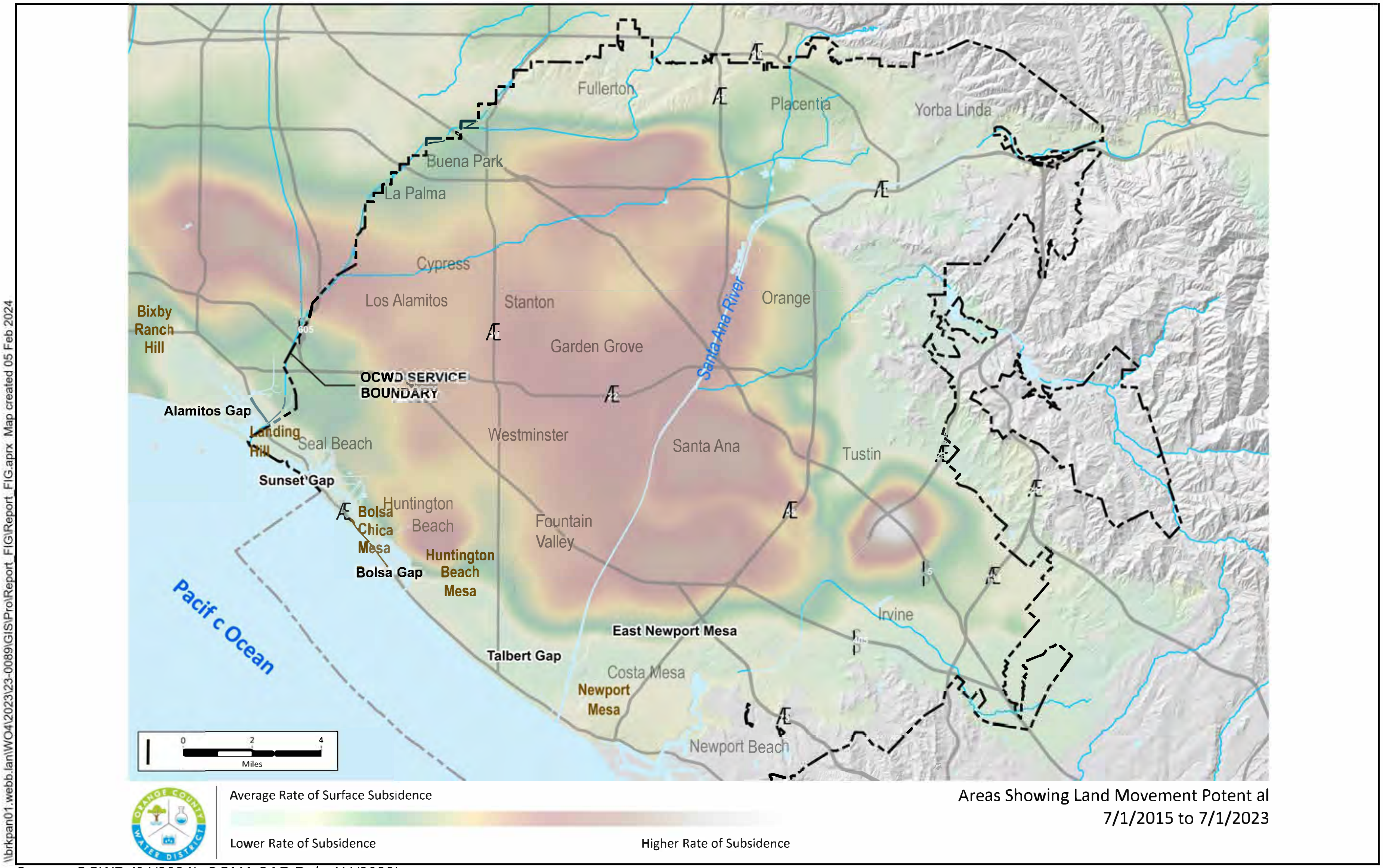
The seawater barriers were designed to control seawater intrusion with the Basin storage staying within the 500,000 AF range, so pumping beyond that may allow seawater intrusion to move inland beyond the barriers. Brackish groundwater (fresh water and seawater combined) flowing inland can render drinking water wells inoperable without expensive treatment using reverse osmosis. The longer the Basin storage were to remain overdrafted (or, drawn down) more than 500,000 AF, the farther inland and extensive the intrusion would be. In other words, a one- to two-year period beyond 500,000 AF may cause little to no irreversible groundwater quality degradation, while periods beyond five years could cause long-term salinity degradation. (PC(1))

With regard to land subsidence, the Basin is composed of sedimentary deposits of permeable sands and gravels interlayered with low-permeability clays and silts. Land subsidence occurs when groundwater levels decrease such that the reduced water pore pressure in the clays and silts causes them to compact under the weight of sediment above them. Over time, this sediment compaction leads to ground surface sinking or land subsidence. Significant land subsidence, like that documented in California's Central Valley, can damage infrastructure (e.g., transportation, buildings, flood control channels, water and sewer lines, etc.). Because of the extensive subsurface clays and silts, the Basin has the characteristics to be susceptible to land subsidence. This susceptibility has been confirmed by studies in the last 20 years using satellites and ground-based sensors that show the ground surface in areas including Santa Ana have subsided and then rebounded in correlation with groundwater levels. **Figure 6 – Areas Showing Land Movement Potential** shows the areas that have shown the greatest tendency for ground surface changes, which have been on the order of ±1 inch over the last eight years. Like seawater intrusion, the severity and irreversibility of land subsidence increases the longer the Basin storage remains beyond 500,000 AF of overdraft. Because OCWD's management of the Basin has kept groundwater levels within an established historical range, there has been no documented long-term land subsidence. One key consideration of land subsidence is that once it is triggered by a sustained groundwater storage reduction (several years or longer), it can continue even after the groundwater storage has recovered. (PC(1))



Source: OCWD (01/2024); SGMA SAR Data (11/2023)

Figure 6 - Areas of Showing Land Movement Potential

OCWD Municipal Service Review

In addition to seawater intrusion and land subsidence, groundwater storage reductions beyond 500,000 AF would reduce the pumping capacity of wells. This is because as groundwater levels drop, the pump intakes inside the wells can be left too shallow or out of the water. Many wells in the basin already have their pump intakes set at their lowest depth. The result of, say, a 100-foot drop in groundwater levels at a well is a loss in its pumping capacity of potentially hundreds of gallons per minute or, alternatively, to construct a deeper well for a cost of $5 million to $10 million. In most cases, there is no cost-effective way to “deepen” an existing production well without significantly reducing its diameter and, hence, its pumping capacity. (PC(1))

Upwelling of deep groundwater is another potential result of drawing down the Basin by more than 500,000 AF. Groundwater from the Basin’s deepest depths could bring water that, although technically potable, looks and smells unappealing and more importantly requires expensive nano-filtration membranes to remove the color and smell. OCWD has modeled the effects of pumping up to 700,000 AF from the Basin and based on the results determined this amount of pumping is considered acceptable only in an extreme emergency (Basin 8-1 Alternative, p. 10-1).

OCWD has many facilities to facilitate surface water diversions and groundwater recharge, reclamation and recharge of wastewater, and monitoring of groundwater elevations and water quality, as summarized in Table 5:

Table 5: OCWD Assets and Capacity

OCWD Asset	Purpose	Capacity
OCWD Fountain Valley Headquarters • OCWD owns all the land including under the OCWD and MWDOC buildings “Office Facilities”). • OCWD owns about 66% of the Joint Office Facilities and MWDOC owns about 33%. • OCWD leases 50% of the land under the Office Facilities to MWDOC.	Office space, parking, equipment storage	n/a
Ground Water Replenishment System • Advanced Purification Facility** • Pipeline	Treat recycled water* from OC San to drinking water standards that is then used for groundwater recharge.	Capacity: 130 MGD (134,000 AFY) Actual WY 21-22: 82.7 MGD

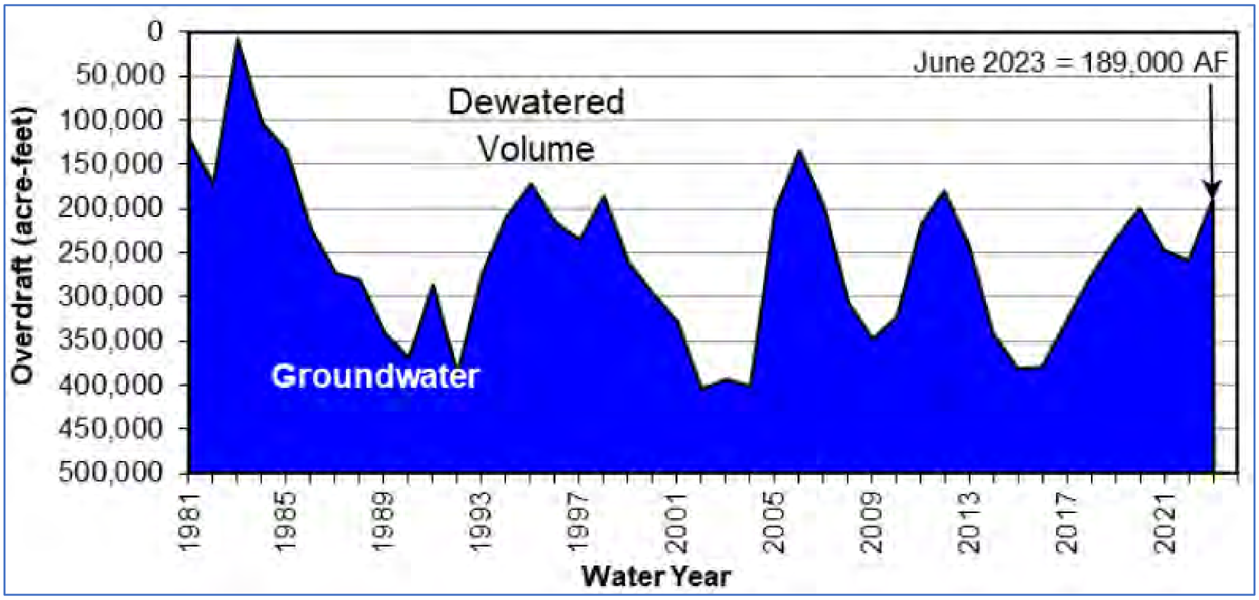
OCWD Asset	Purpose	Capacity
Santa Ana River Field Headquarters (Anaheim) • Recharge Basins[(a)] • > 25 facilities covering > 1,000 wetted acres	OCWD staff field office in close proximity to the recharge basins in Anaheim and Orange.	Maximum storage capacity: 26,000 AF[(b)] Average annual recharge: 250,000 AF
Green Acres Project (GAP) Title 22 Reclamation • Since 1991 • 37 miles of OCWD distribution pipelines, 2 pump stations, 2 reservoirs, and intertie to IRWD • 107 active meters	Take secondary treated wastewater from OC San, provide additional (tertiary) treatment such that recycled water* is available for retail agencies for 100 different sites that use it for landscape irrigation, industrial use, toilet flushing and power generation cooling.	Capacity: 7.5 MGD (Current demand is ~3.4 MGD or 3,827 AF for WY 21-22)
Talbert Seawater Intrusion Barrier • Since 1975 • Supplied by Supplemental Water[(d)] and GWRS • 36 injection wells	A line of groundwater injection wells to create a hydraulic barrier using recycled water that has been treated to drinking water standards (or treated imported water) against seawater moving inland between Huntington Beach Mesa and Newport Beach Mesa along Ellis Avenue. Can also be used for basin recharge.	Supplemental Water: 12,500 gallons (14 AF) in WY 21-22 Recycled Water: 23,980 AF
Alamitos Barrier Project • Since 1964 • 43 injection wells and 177 monitoring wells • Supplied by GWRS and WRI) • O&M with Los Angeles Dept. of Public Works	A line of jointly owned groundwater injection wells to create a hydraulic barrier along the Los Angeles County/Orange County boundary using recycled water that has been treated to drinking water standards (or treated imported water) against seawater moving inland between Bixby Ranch Hill and Landing Hill.	WRD has 8 MGD design capacity; but pumping closer to 3 MGD. WRD supplied 1,475.9 AF in WY 21-22. GWRS: 1,228.1 AF in WY 21-22
Philip L. Anthony Water Quality Laboratory • Analysis of 1,500 OCWD sites and > 200 drinking water wells for local water providers. • 31 chemists and technicians, 12 water quality monitoring personnel	Federally accredited and state-certified public agency laboratory for water quality testing for OCWD's monitoring sites, as well as Producers.	>400,000 analyses45 approx. 20,000 water samples each year

OCWD Asset	Purpose	Capacity
Prado Basin • Working with the USACE since 1960s; monitoring wetlands since 1998 • Approx. half of the non-storm flows of the Santa Ana River diverted through wetland ponds • *Arundo donax* removal, native plantings, least Bell's vireo population rebound • Sediment removal behind dam	The wetlands behind Prado Dam in Riverside County are designed to remove nitrogen and other chemicals from the Santa Ana River (both storm flows and a diverted segment of non-storm flows) to improve water quality before the river enters Orange County and diverted into OCWD's recharge basins.	Owns 2,400 acres behind Prado Dam and 6-mile stretch of Santa Ana River Wetlands on 465 acres remove 15 to 40 tons of nitrates per month Minimum 42,000 AFY of river water to Orange County[(e)]
Non-barrier wells (monitoring wells) • Approx. 400 wells	Critical to understanding what is happening beneath the ground and how much is being extracted, OCWD gathers groundwater data from its own wells located throughout its Service Area and combines that with data from Producer's monitoring wells.	-
Rolling Stock	Vehicles and equipment used by OCWD staff to access sites and provide maintenance of facilities.	-

Notes: IRWD = Irvine Ranch Water District; AFY = acre feet per year; MGD = million gallons per day; WY 21-22 = Water Year 2021-2022 (July 1 to June 30); USACE = U.S. Army Corps of Engineers.
*Recycled (or, reclaimed) water means raw sewage (wastewater) that has been treated to meet California's Title 22 guidelines so that the water can be reused for direct beneficial (but not potable) use. Typically, this means a tertiary level of treatment.
**Advanced treatment means tertiary-treated recycled water that is then purified further using methods like microfiltration, reverse osmosis, and ultraviolet (UV) light with hydrogen peroxide or chlorine. Typically produces water that meets drinking water standards, although still referred to as "recycled water" or "effluent."
(a) Refer to Table 5-3 of GMP 2015. Four basins are not owned by OCWD.
(b) Maximum storage capacity is typically not achieved because of need to reserve buffer space. (GMP 2015)
(c) Water Replenishment District of Southern California (WRD), serving southern Los Angeles County.
(d) Supplemental Water typically includes imported deliveries from MWD (i.e., Colorado River or State Water Project), diversions from Irvine Lake/Santiago Reservoir (i.e., Santiago Creek), non-local waters, and deliveries from water exchanges within the Santa Ana River Watershed.
(e) One of the results of OCWD v. City of Chino, et al., Case no. 117628 – County of Orange, is at least 42,000 AF of Santa Ana River baseflow shall be delivered to Orange County, and OCWD gained the rights to all storm flows reaching Prado Dam. Parties to the judgment include Western Municipal Water District, San Bernardino Valley Municipal Water District, and Inland Empire Utilities Agency.

The term, "capacity" for OCWD speaks to the ability to recharge the Basin and offset groundwater pumping. OCWD manages the Basin like a reservoir; at 100 percent full, overdraft is zero. The "reservoir" can be drawn down by no more than 500,000 AF, or when overdraft is 100 percent. In wet years, the reservoir refills and in dry years, it typically draws down. Indeed, the District is not required to keep the basin at 100 percent full but rather manages it in a constant fluctuating state of overdraft, roughly between -150,000 AF to -200,000 AF (or, 60 to 70 percent full) that reflects how much rain fell and constraints on well production (e.g., pollutants in groundwater). OCWD uses the term, “accumulated overdraft” to represent the volume of empty basin storage that is available to fill with groundwater (BSU, p. 1), which is shown as 189,000 AF in Chart 4. The increase of water in the Basin as of June 2023 comes after two years of decline and ended up being more recharge than originally projected due to higher than expected rainy seasons.

Chart 4 – OCWD Basin Overdraft, WY 1980-2023



Excerpt from *2022-2023 Engineer’s Report,* page 11. Unpublished data provided by OCWD indicates the accumulated overdraft is 133,000 AF as of June 2024.

The reasons OCWD maintains this overdraft “sweet-spot” of -150,000 AF to -200,000 AF are: 1) to reserve space for rainfall events; 2) maintain a reservoir of about 300,000 AF of supply; and 3) minimizes water loss to Los Angeles’ side of the basin (the Los Angeles side of the basin is kept in a deeper state of overdraft than the Orange County side).

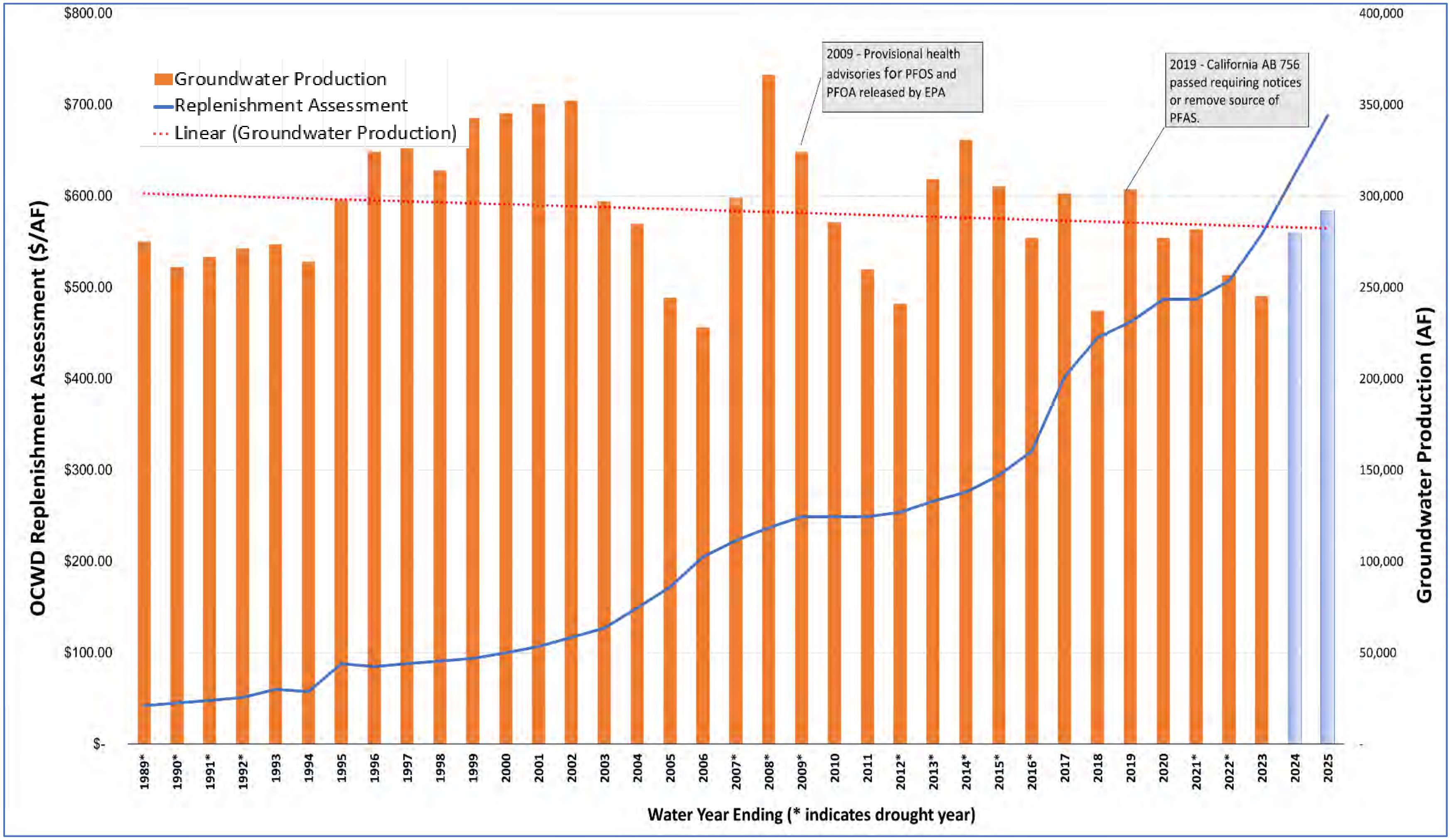
Chart 5 (on page 47) graphs the recorded RA from 1989 to 2024. The RA has steadily increased from a low of $42/AF in 1989 to $624/AF in WY 2023-2024. Years in which the RA increased substantially include 1993 (following four years of drought), 1995, 2004, 2005, 2006, 2017 (following five years of drought), and 2024. The primary reasons for the RA increases include: (1) the amount of Santa Ana River base flows coming to OCWD have decreased from a high of over 150,000 afy in 1999 to the current amount of approximately 80,000 afy; (2) to provide funding for the Groundwater Replenishment System (GWRS); and (3) to provide funding to construct PFAS treatment systems.

Years marked with an asterisk (*) are drought years when groundwater pumping tends to increase because of a decrease in surface and imported water supplies. However, Chart 5 suggests drought years may not be a decisive factor in groundwater pumping trends (i.e., there is not a steady increase during multiple-dry year periods). This reflects the effect of water conservation measures and other demand management strategies.

RA fees are shown with annual volume of recorded groundwater pumping, which ranges from a low of 228,159 AF in 2006 to a high of 366,185 AF just two years later in 2008. The linear trendline shows an average decline in pumping overall during the time period. The RA is not a significant factor in decreasing groundwater pumping. For example, the RA increased 35 percent between 1994 and 1995 and groundwater pumping increased nonetheless during and following the increase through 1997.

The current primary constraint for OCWD on groundwater use is water quality, especially concentrations of PFAS compounds, which has resulted in wells being turned off until additional treatment can be added to the system. The decline in pumping after the PFAS regulations took effect in 2019 reflects this (a decrease of approximately 22 percent). Because the rate for MWD water is currently about $1,300 per AF, the RA could be increased by OCWD significantly without jeopardizing financial stability.

Chart 5 – Groundwater Pumping and Replenishment Assessment Since 1989



Source: EPA 2012, AB756 2019, OCWD 2024

The OCWD Act defines the term "overdraft" differently than a traditional definition. A hydrologist might define overdraft as: "Overdraft occurs when, over a period of years, more water is pumped from a groundwater basin than is replaced from all sources- such as rainfall, irrigation water streams fed by mountain runoff, and intentional recharge" (Water Education Foundation). The OCWD Act defines overdraft in terms of natural replenishment only: "the amount, determined by the board of directors, by which the production of water from the groundwater supplies within said district during the WY [July 1 to June 30] exceeds the natural replenishment of such groundwater supplies in such WY." In other words, the overdraft occurs when the volume pumped is greater than the volume recharged naturally through rainfall, the Santa Ana River, Santiago Creek flows, and natural infiltration of surface waters (regardless of how much is recharged from recycled water or supplemental water).

Are OCWD's facilities sufficient to recharge the groundwater basin?

WY 22-23 is the most recent data available to address this question. First, the total water supply into the basin was 313,555 AF and the amount pumped from the basin was 245,210 AF (OCWD 2024, Appendix 5). This is a difference of about +69,000 AF and represents the amount added to the Basin over the year, which reduced the overdraft to -189,000 AF. In short, more water was put into the Basin then was pulled out. This is mostly attributable to the rainfall for the year being 21.12 inches, or 158 percent of the long-term average (i.e., a "wet year"); compared to the prior year, WY 21-22, which had about half of the average rainfall, or 6.84 inches and a net decrease of 10,000 AF.

On the other hand, the BPP for WY 22-23 was increased in February 2023 from 77 percent to 85 percent by the OCWD Board of Directors. This means the groundwater producers could pump up to 85 percent of their total water demands from the Basin and only pay the RA. However, in WY 22-23, groundwater producers ended up producing just 73.3 percent of their water demands from the Basin with the decreased pumping attributable to PFAS concentrations in certain wells. Producers also did not meet the 77 percent BPP for the prior WY. Because less pumping occurred than assigned by the BPP in WY 22-23, the Basin had a net increase of 69,000 AF and ended up in the "sweet spot" between -150,000 AF and -200,000 AF (i.e., -189,000 AF) in the Basin.

As noted in Table 5, OCWD has a network of 25 recharge basins (not including seawater barriers) that have a maximum recharge ability (if all are completely empty at the same time) of 300,000 AFY (PC(2)). OCWD has water rights to the Santa Ana River flows below Prado Dam totaling 362,000 AFY and an additional 49,980 AFY was requested in 2023 based on completed projects to capture the flows. In addition, the District's GWRS produced 101,950 AF in WY 22-23 and still operating less than its maximum capacity of

130 mgd. Based on the results of the water supplies acquired and recharge that occurred in WY 22-23, it can be reasonably concluded that the OCWD facilities have sufficient capacity to recharge the Basin.

Does a net decline in groundwater supply indicate inability to provide service?

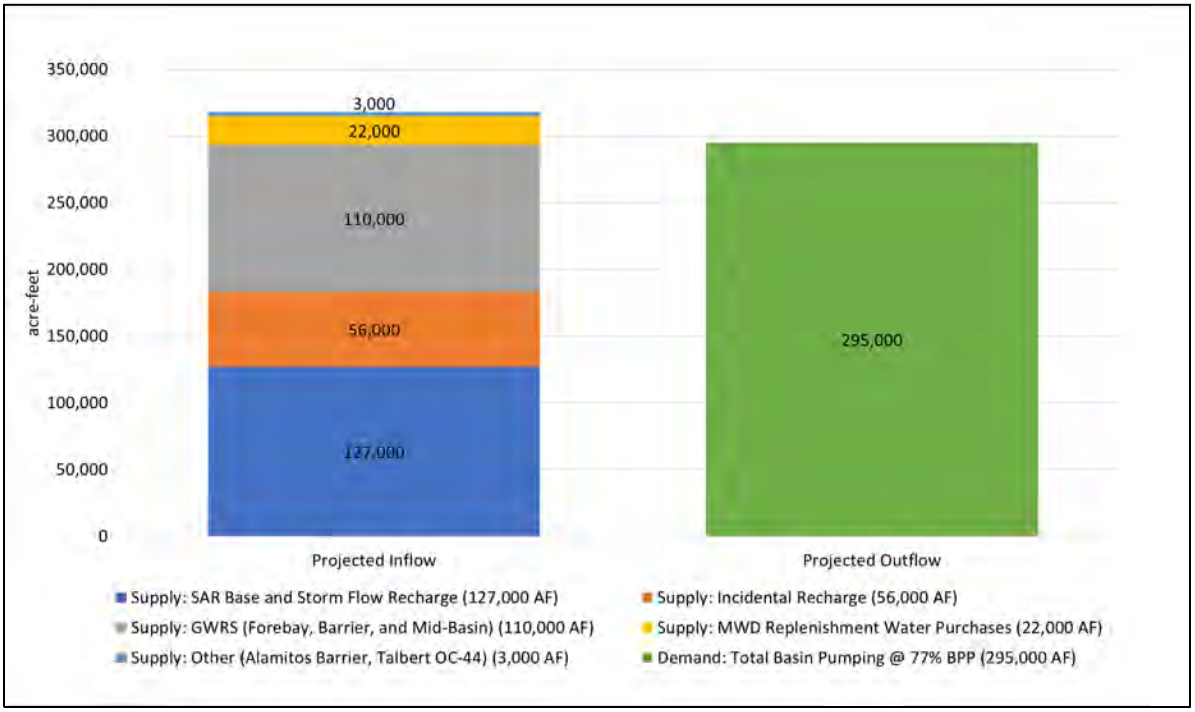
Regardless of how many recharge facilities one agency may have, if the rain does not materialize in Orange County (lower Santa Ana River Watershed), or the Inland Empire (upper Santa Ana River Watershed), Northern California, or Colorado River Watershed, then water supplies for recharge are inherently limited. For example, WY 21-22 yielded 6.84 inches or roughly half the annual average rainfall for the OCWD Service Area (12.9 inches), and the prior year had even less. However, the Basin still had a little more than 200,000 AF in storage at the end of WY 21-22.

PFAS

The acronym, PFAS represents thousands of man-made chemicals used to make fluoropolymer coatings and products that resist heat, oil, stains, grease, and water. Scientists are still learning how to test for them and their effects on humans and the environment. PFAS are found worldwide and do not easily break down. Regulations in California are evolving as more is learned. (https://www.epa.gov/pfas/pfas-explained)

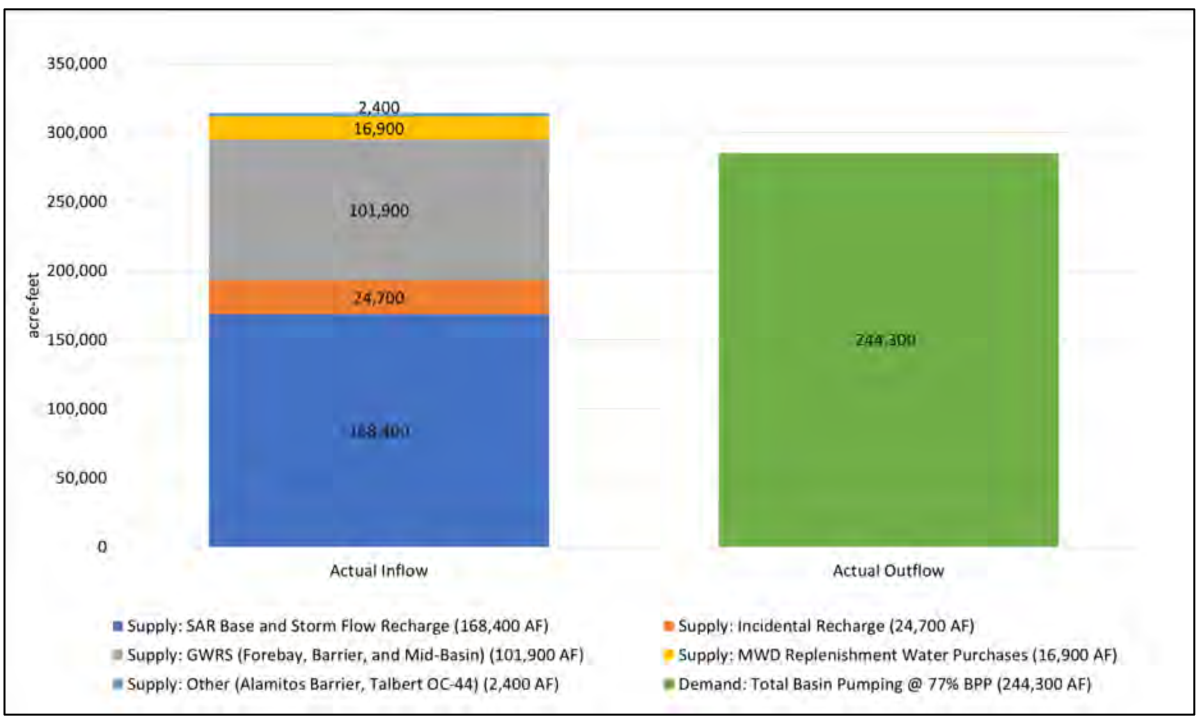
In addition to having below-average rainfall in WY 21-22, OCWD's ability to provide its service is constrained currently due to the presence of PFAS chemicals in the Basin. Concentrations of PFAS chemicals higher than the State response levels have resulted in many wells being turned off in WY 21-22 until additional treatment can be brought online that reduces the concentration of PFAS enough to meet State response levels. Fortunately, effective removal of PFAS from water supplies can be done with tried-and-true treatment methods including carbon filters, reverse osmosis, and ion exchange. While wells are turned off waiting for treatment systems, the 19 Groundwater Producers relied on the combined effect of conservation and imported water to continue meeting customer demands. The projected and actual water supplies and water demands for WY 21-22 are shown in Charts 6 and 7, on the following page.

Chart 6 – OCWD Projected Water Budget for WY 22-23



Source: OCWD Board of Directors, *Basin Storage Update for WY 2022-23*, Sept. 13, 2023.

Chart 7 – OCWD Actual Water Budget for WY 22-23



Source: OCWD Board of Directors, *Basin Storage Update for WY 2022-23*, Sept. 13, 2023.
(1) Actual "SAR Base and Storm Flow Recharge" includes 10,374 AF of percolation from prior year's carryover storage in recharge basins and 27,625 AF of Santiago Creek and other local inflows.
(2) The Basin Storage Update data was assembled in September 2023 and does not match exactly with the Engineer's Report from February 2024 referenced herein (e.g., actual rainfall 21.12 in. versus 25.7 in.).

Because the Basin is operated like a reservoir, a net decline in groundwater does not indicate that OCWD is deficient in providing its public service. In fact, this approach to basin management is supported by the State even though it contrasts with the traditional condition of "overdraft." For example, the California Water Plan Update (2013) states:

> Change in groundwater storage is the difference in stored groundwater volume between two time periods…However, declining storage over a period characterized by averaged hydrologic conditions does not necessarily mean that the basin is being managed unsustainably or is subject to conditions of overdraft. Utilization of groundwater in storage during years of diminishing surface water supply, followed by active recharge of the aquifer when surface water or other alternative supplies become available, is a recognized and acceptable approach to conjunctive water management. (CWP, p. SC-77)

Furthermore, as stated in OCWD's 2015 Groundwater Management Plan:

> Because OCWD has the means to manage basin storage with a safe operating range and has operated the basin within this range for decades, overdraft in the traditional sense does not exist in the Orange County Groundwater Basin. (GMP, p. 10-4)

The September 2023 California Water Plan Update Public Review Draft supports efforts to increase available supplies from a range of sources by expanding water storage above and below ground, increasing availability of recycled water, increasing the amount of stormwater runoff captured, and increasing desalination (2023 CWP pp. 4-5, 4-6). OCWD's water supply projects are consistent with the State's plan for water supply sources in the future.

Taking into account the District's demonstrated ability to refill the basin when supplies are available and to pursue projects that expand its capacity to refill the basin while implementing effective conservation and education programs, partnering on conjunctive use (storage) programs, and expanding wellhead treatment to bring impaired wells back online, OCWD's public facilities and services are adequate and have sufficient capacity to meet the demands of existing and currently forecasted customers.

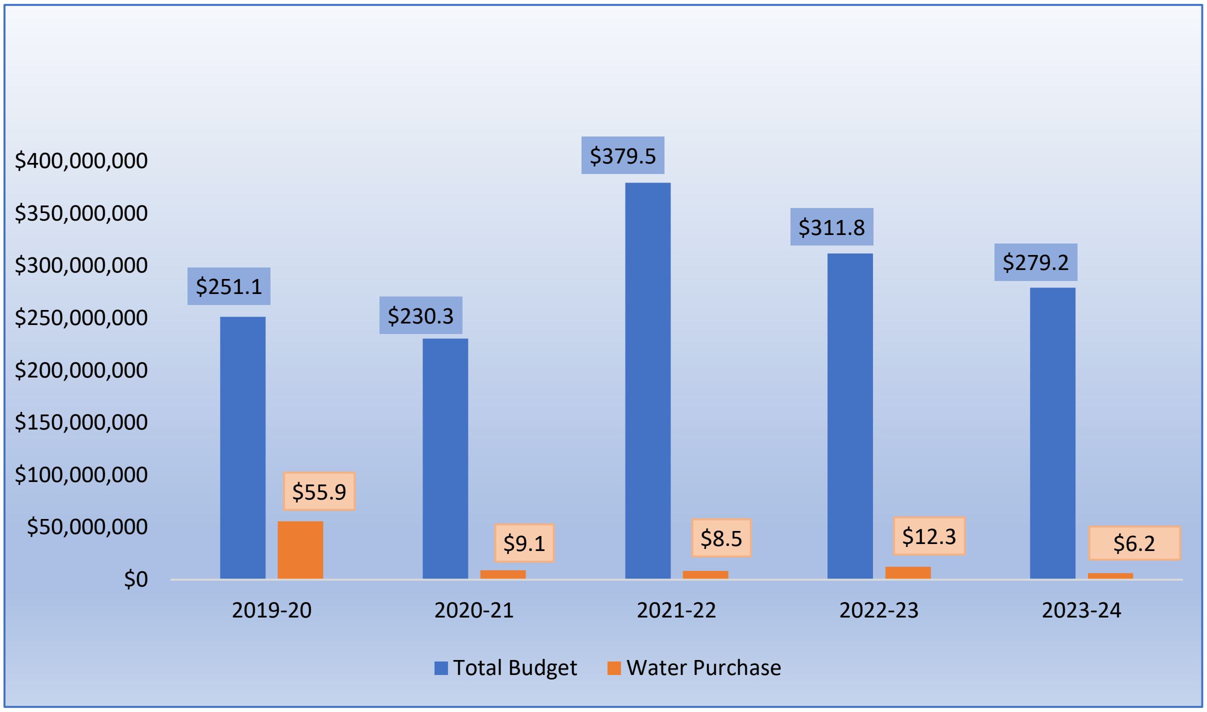
<u>Infrastructure Needs or Deficiencies in any DUCs</u>

OCWD is not aware of infrastructure needs or deficiencies that exist within the aforementioned DUCs identified in Section 3.2. The retail water suppliers and mutual water companies in those areas are responsible for operation and maintenance of the water distribution lines and laterals that bring water to individual customers and businesses. OCWD monitors the water quality of the wells and accounts for the water pumped by both large and small producers including those within the DUCs. Addressing existing or future infrastructure deficiencies to supply potable water to the identified DUCs is not the responsibility of OCWD. OCWD recharges the Basin with water for small and large producers to access regardless of where DUCs exist. OCWD is meeting the present and probable needs for potable water facilities and services of the DUCs to the extent that it is responsible for. Nonetheless, it is recommended that OCWD make available to some reasonable degree, its extensive technical resources when requested by the mutual water companies within a DUC that need help to navigate funding opportunities for system improvements.

3.4 Financial Ability to Provide Services

OCWD Board of Directors adopted the District's *Fiscal Year 2023-2024 Budget* on April 19, 2023. The total budget of $279,170,022 represents an approximate ten and one-half percent decrease over Fiscal Year 2022-2023. The approved budget reflects the required resources to proactively manage the Orange County Groundwater Basin and improve the water quality and reliability of Orange County's local water resources at the lowest possible cost to their 19 Groundwater Producers. The approved budgets for FY 2019-2020 through 2023-2024 with the amount of purchased water are shown on Chart 8.

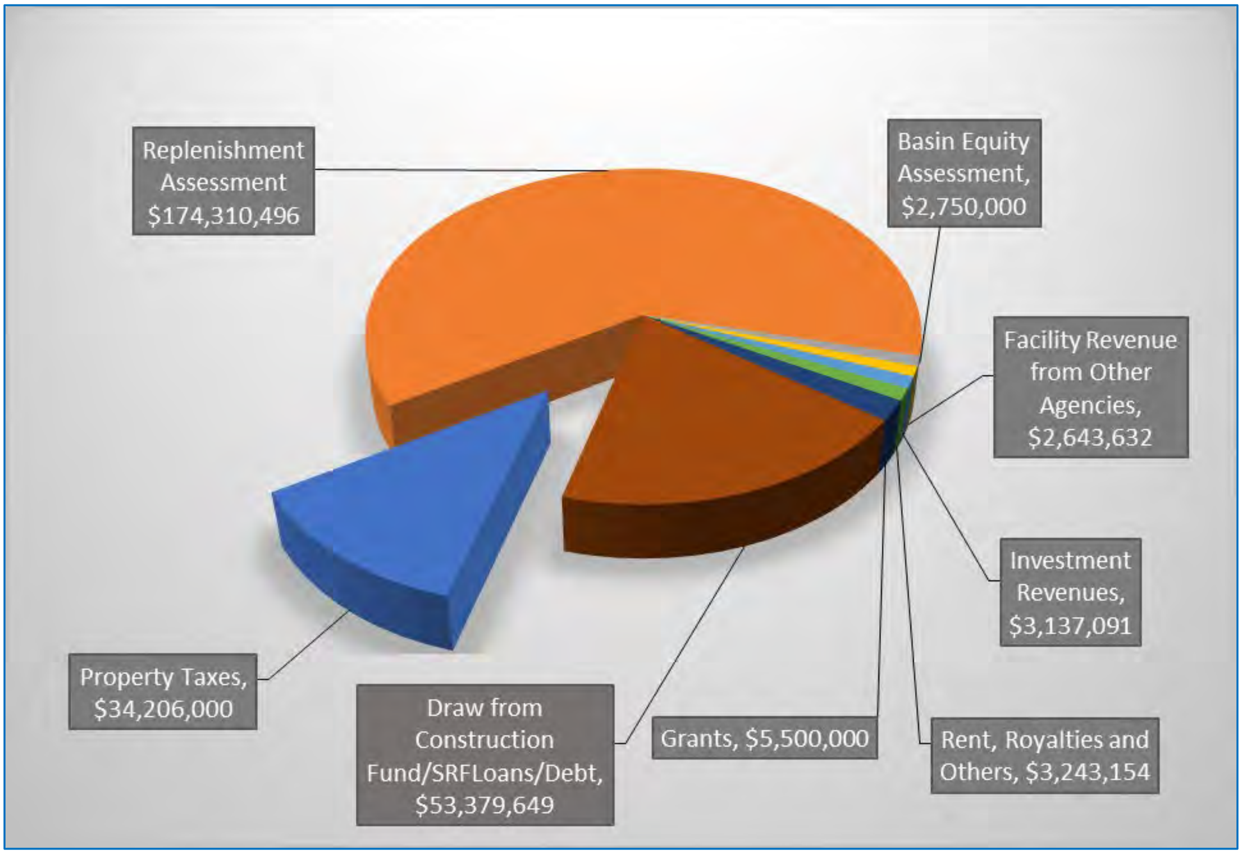
Chart 8 – OCWD 5-year Budget Totals ($ millions)



As shown in Chart 8, since Fiscal Year 2019-2020, the District's budget has been on a downward trend until Fiscal Year 2021-2022 when the budget increased approximately 65 percent. Most of the increase can be attributed to the 20 capital improvement projects budgeted for that fiscal year. Capital improvement projects are budgeted over a 5-year period and are paid through debt in the form of bond issuances, grants, loans, and RA revenue referred to as PAYGO. The downward trend in expenses resumed in Fiscal Year 2022-2023. A factor in the budget fluctuations from year to year is the cost of water that OCWD purchases to replenish its groundwater basin, which can fluctuate year to year depending on the groundwater basin levels. Recently, the need for purchasing imported water has been low due to cooler weather, above-average precipitation in Southern California, and a dramatic reduction in groundwater pumping.

Chart 9 shows that most of OCWD's revenue sources for FY 2023-2024 are attributed to Replenishment Assessments levied on groundwater producers.

Chart 9 – OCWD Revenue Sources FY 2023-2024



OCWD's revenues for Fiscal Year 2023-2024 total $279,170,022 and include the following key categories as shown in Chart 9:

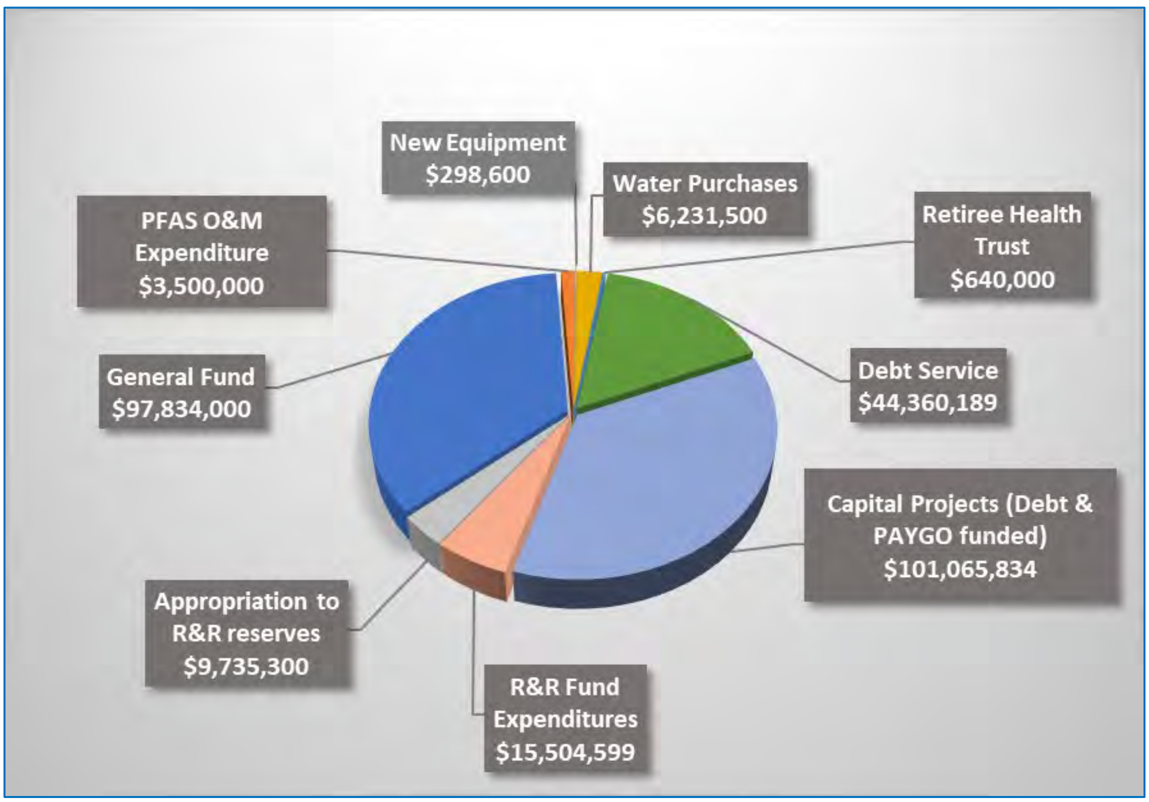
- Assessments
  Assessment revenues come from (i) Replenishment Assessments, and (ii) Basin Equity Assessments (BEA). The Replenishment Assessment is assessed on each acre-foot of water pumped from the Basin at a current rate of $624/AF (for FY 2023-24). Based on the established Basin Production Percentage (BPP) of 85 percent equivalent to 280,262 AF pumped, the Replenishment Assessment is expected to generate $174.3 million in FY 2023-24. Assessments also include the Basin Equity Assessment (BEA), which is the additional fee charged by OCWD on water pumped that exceeds the BPP. The BEA is calculated for each Groundwater Producer based on the treated full service MWD water rate and each Producer's individual energy cost to pump groundwater. The BEA is assessed each September for all groundwater pumped above the BPP. Approximately $2.75 million of BEA revenue is expected for FY 2023-2024.
- Ad Valorem Property Taxes
  An ad valorem tax is a tax based on the assessed value of an item, such as real property. The County of Orange imposes an ad valorem tax of approximately one

percent of the assessed value of the property within its boundaries. OCWD receives a percentage of the one percent ad valorem tax imposed on all property within its Service Area. OCWD's share of the ad valorem tax varies by Tax Rate Area (TRA) and on average is approximately 0.0081%.[13]

- Investment Revenue
  Revenue generated from cash reserves that have been invested into short-term securities pursuant to the District's Investment Policy.
- Miscellaneous Revenues
  Include such items as annexation fees, rents and leases, other grants, and miscellaneous items.
- Facility Revenue from Other Agencies
  Revenue from other agencies, such as the water reclamation project that serves treated recycled water to irrigation and industrial users, referred to as Green Acres Project.

Chart 10 represents the OCWD budgeted expenditures for Fiscal Year 2023-2024.

Chart 10 – OCWD Expenditures FY 2023-24



[13] Source: Orange County Auditor Controller, *Annual Tax increment Factor by Tax Rate Area 2023-2024*, available at https://ocauditor.gov/wp-content/uploads/2023/08/AT68AH71___Section_99_Factor_Report_by_TRA___8_29_2023.pdf

OCWD's expenses for Fiscal Year 2023-2024 total $279,170,022 and include the following key categories as shown in Chart 10:

- General Fund
  Agency operational expenses, representing approximately 35 percent of total expenses.
- PFAS O&M Expenditures
  Reimbursement of 50 percent share of PFAS Treatment Operating Cost.
- New Equipment
  Capital equipment such as laboratory equipment, computers, and software, etc. This is the smallest of the expenditure categories.
- Water Purchases
  Purchases of imported water from MWD through MWDOC.
- Retiree Health Trust
  Funds held for agency's portion of retiree health benefits.
- Debt Service
  Debt Service payment expenses, representing approximately 16 percent of total expenses.
- Capital Projects
  Comprised of 19 projects and represents approximately 36 percent of total expenses. This is the largest of the expenditure categories.
- Replacement and Refurbishment (R&R) Fund Expenditures
  Replacement and refurbishment of infrastructure type assets.
- Appropriation to Replacement and Refurbishment (R&R) Reserves
  Replenishment of replacement and refurbishment reserves.

<u>Debt Administration</u>

According to OCWD's financial statements, the District has approximately $870 million in outstanding debt as of July 1, 2023. The District uses this long-term debt, along with other funding mechanisms, to fund capital improvement projects. This policy was established in October 2000 and calls for the following:

- Preliminary project expenses related to direct research are to be paid by the General Fund and cannot be financed with long-term debt.
- Project expenses for items such as feasibility reports, pilot studies, engineer reports, compliance with CEQA, project design and construction may be capitalized and funded with long-term debt.
- Project expenses that are capitalized and funded with long-term debt and do not lead to the construction of a project will require an adjustment by the OCWD

Accounting Department to pay off the long-term debt incurred using cash reserves.

The District's Debt Management Policy (Policy No. FIN-02, November 1, 2016) allows for the following types of debt:

- Certificates of Participation (COP) and Revenue Refunding Bonds
- California State Revolving Fund Loans
- Commercial Paper
- Taxable Bonds

Debt Service budget amounts fluctuate from year to year based on debt service payment schedules and whether new debt has been issued or old debt has matured. The budgeted debt service amount for Fiscal Year 2023-2024 is approximately $44.4 million. This debt will increase by $2.2 million in Fiscal Year 2024-2025 when the first payment on the State Water Resources Control Board Clean Water State Revolving Fund Loan for the GWRS Final Expansion Project is due. Each debt series has its own debt service payment schedule and maturity date. In addition to the debt service payments, the District incurs debt administration costs, also factored in the annual budgeted debt service amounts.

Reserves and Fund Balances

OCWD has a District Reserve Policy in place to ensure it meets all its obligations and maintains its strong credit rating. Some reserve funds have set amounts not to exceed such as the Operating Reserve Fund (not to exceed 15 percent of the total current annual general and water reserve fund operating budget); some have minimum balances they should not fall under such as the Operating Fund (50 percent of the sum of the current annual budgeted General Fund appropriations, and current annual budgeted debt service appropriations); and some have set target levels to meet such as the Contingency Reserve Fund (not to exceed $3 million). As the projected reserve balance drops below the target amount, then the proposed budget would increase the budgeted contribution to bring the reserves back up to target. The depleted reserves are replenished using revenue collected from the Replenishment Assessments as well as investment revenues.

According to the Annual Comprehensive Financial Reports (see Covenants and Reserve Requirements), the Designated and Operating Reserve balances during the past five fiscal years have met the requirements of the reserve policy approved by the Board.

Table 6: OCWD 4-Year Reserve Fund Balances

	2019-20	2020-21	2021-22	2022-23
Restricted Reserves	$105,573,696	$5,502,257	$106,191,061	$18,111,407
Designated Reserves Funds	$194,163,423	$184,471,581	$198,740,266	$205,196,230
Operating Funds	$55,427,207	$90,502,826	$88,520,131	$84,330,076
Total	**$355,164,326**	**$280,476,664**	**$393,451,458**	**$307,637,713**

OCWD's Reserve Policy is categorized into three areas: restricted funds and reserves, designated reserves and funds, and operating funds.

Restricted Reserve Funds:

- Capital Project Funds
  This subcategory was established for proceeds from bond issuances or any other debt financing and is used for the District's capital projects and capital improvements. These funds are restricted to specific capital projects which are authorized and approved by the Board of Directors.
- Debt Reserve Funds
  This subcategory was established for various bond issues. These funds are not available for the general needs of the District and must be maintained at specific levels and are restricted by certain bond covenants.
- Basin Equity Assessment (BEA) Funds
  This subcategory was established for funds received from the levy of the District's BEA. These funds are to be used only for the purchase of water for the purpose of groundwater replenishment and/or to reimburse producers assigned pumping limitations pursuant to the District Act.

Designated Reserve Funds:

- Toxic Cleanup (Emergency Response Fund/Environmental Remediation Fund)
  This subcategory was established for toxic spill emergencies and cleanup. The current target level is $4 million and is to be replenished annually after the adoption of the annual OCWD budget. Funds totaling $3.528 million will have been collected from the lessee over a 30-year term.

- Contingency Reserve Fund

  This subcategory was established by the District Act to provide for expenditures that have not been anticipated or provided for in the District's annual budget. The money for this fund is to be allocated from the Operating Fund and the Water Reserve Fund at the beginning of each fiscal year. The level of this fund as established by the District Act is not to exceed $3 million.

- Capital Fund (PAYGO)

  This subcategory was established for proceeds from Replenishment Assessment revenues earmarked towards the capital improvement program as opposed to financing all the District's capital expenditures and has no legal restrictions such as bond proceeds would.

- State Revolving Fund Loan Debt Service Reserve Fund

  This subcategory was established as an unrestricted reserve as a condition of the low-cost State Revolving Fund loans equal to one year's debt service.

- Water Reserve Fund

  This subcategory was established by the District Act to accumulate any excess general assessment, or unexpended funds, other than funds allocated to the operating reserve or operating contingencies by the Board of Directors. These funds can be used for the purchase of supplemental water for groundwater replenishment, acquiring, constructing, or developing any groundwater intrusion prevention projects, pipelines, wells, or other works necessary for the purposes of the district. This fund shall be designated only for purchases of supplemental water in order to have funds set aside and available. This will provide accountability and transparency to the Board and Groundwater Producers on funds collected and spent on water purchases. The maximum upper limit is set at enough funds to purchase 50 percent of water needed to have an accumulated basin overdraft of 125,000 AF.

- Operating Reserve Fund

  This subcategory was established by the District Act and allocated from the general fund to be used to meet the cash flow needs of the District before the proceeds of taxes or Replenishment Assessment collections are available to meet emergency expenditures for operations, maintenance, and the debt service payments of the District. The level of this general operating reserve as established in the District Act shall not exceed 15 percent of the total current annual general and water reserve fund operating budget.

- Replacement and Refurbishment Fund

  This subcategory was established for replacement or refurbishment (R&R) of existing District facilities, to be equal to thirty years of projected replacement and refurbishment costs as defined in the District's R&R model. This differs from the budget for capital projects in that capital projects typically enhance, expand, or build/purchase a new asset.

Operating Funds (Water Replenishment Fund):

- Operating Cash, Replenishment Assessment, and Annual Debt Payments

  This subcategory was established for funds collected and received from the levy of the District's Replenishment Assessment. These monies shall be sufficient to enable the District to carry out any of the projects or purposes of the District as deemed by the Board of Directors. It can also include the expenditures necessary for the maintenance, operation, and repairs of works and projects of the District as authorized by the Board of Directors. The funds can also be used for the purchase of supplemental water, and the replenishment of groundwater supplies within the District. The District shall maintain a minimum balance equal to fifty percent of the sum of the (i) current annual budgeted General Fund appropriations, plus (ii) current annual budgeted debt service appropriations.

OCWD has demonstrated that it is able to support the servicing needs of its Service Area. The revenue sources continue to meet the expenses and are able to adapt to changing needs due, in large part, to the flexible Replenishment Assessment revenues.

3.5 Status of, and Opportunities for, Shared Facilities

The following Table 7 is a summary of the major agreements OCWD has entered into with other agencies to share facilities and/or services. This table identifies shared opportunities that involve arrangements with OCWD and other agencies for services that otherwise would have been provided by the agency but partnering with OCWD creates benefits, efficiencies, or makes them cost-effective.

Table 7: Description and Status of OCWD Agreements

Partner Entity(ies)	Subject Facility(ies)	Form of Agreement	Term of Agreement	Description	Status
15 Groundwater Producers (a subset of the 19 Groundwater Producers)	Production wells	Contract	Producers will own/operate treatment system for 30 years.	Groundwater Producer-OCWD PFAS Agreement based on OCWD policy dated Nov. 22, 2019 to construct PFAS treatment systems for impacted Producers who want to participate.	In-progress and expected to expand.
Irvine Ranch Water District, Orange County Sanitation District	Green Acres Project	Contract	15 years	OC San provides treated wastewater that OCWD treats further. Includes intertie to Irvine Ranch Water District's recycled water distribution system.	Operational
Irvine Ranch Water District, Municipal Water District of Orange County, and South OC Water Agencies*	South OC Emergency Services Program	Contract	Executed Nov. 14, 2008. Up for renewal in December 2029	Used for emergencies and planned MWD operational shutdowns. IRWD would supply up to 50 cfs for up to 30 days (3,000 AF) to the 5 South OC Agencies. They would pay IRWD for the water but no compensation goes to OCWD. The amount of water being sent is very small compared to the Basin's operation.	Whether or not this is renewed, OCWD is planning for a second emergency program with City of Santa Ana and Moulton Niguel Water District.
*South OC Water Agencies include City of San Clemente, Laguna Beach County Water District, Moulton Niguel Water District, Santa Margarita Water District, and South Coast Water District.					
Los Angeles County Flood Control District, the Water Replenishment District, & City of Long Beach	Alamitos Barrier Project	Contract	No end date given	Operate joint venture of facilities necessary to prevent, control, and correct intrusion of sea water into groundwater supplies of Central Basin in LA County and the OC Basin through the Alamitos Gap Area.	As long as there is pumping of the Basin and an ocean, this will continue. WRD has ample capacity in their water treatment facility for additional supply for injection wells along the Alamitos seawater barrier.

Partner Entity(ies)	Subject Facility(ies)	Form of Agreement	Term of Agreement	Description	Status
Municipal Water District of Orange County	Agreement and Lease executed April 15, 1987	Contract	Agreement and Lease has a 50-year term from April 15, 1987 through April 15, 2037.	OCWD owns all of the land at its Fountain Valley headquarters, including the land under the OCWD and MWDOC buildings (collectively, the "Office Facilities"). OCWD owns about 66% and MWDOC owns 33% of the Office Facilities. OCWD leases 50% of the land under the Office Facilities to MWDOC.	Still current. MWDOC has the option, at its sole discretion, to extend the term of the Agreement and Lease for periods of 15 years.
Orange County Sanitation District	Ground Water Replenishment System	Contract	Upon dissolution	Cost-share of Phase 1; OC San provides secondary treated wastewater at no charge and built a pump station; OCWD manages and funds the GWRS operations. Partners in public outreach and grant procurement.	Functional and successful though limited by what OC San can provide. Advanced treatment capacity expanded in 2023 from 100 to 130 mgd. Additional expansion not proposed at this time.
Santa Ana Watershed Project Authority (SAWPA)	n/a	Joint Exercise of Powers Agreement dated 1975	Upon dissolution	Create a public agency with Inland Empire Utilities Agency, and San Bernardino Valley, Eastern and Western Municipal Water Districts to undertake projects for water quality control, pollutant abatement in the SAR Watershed using funds contributed by member agencies and grants and by issuing articles of indebtedness to finance project costs.	OCWD continues to be a member agency of SAWPA.

Partner Entity(ies)	Subject Facility(ies)	Form of Agreement	Term of Agreement	Description	Status
SAWPA Partner Agencies and The Metropolitan Water District of Southern California	Santa Ana River Conservation and Conjunctive Use Program water bank (SARCCUP)	Contract	Construction deadline: July 31, 2025 Operations contract	Prop. 84 grant between SAWPA and DWR. OCWD can store up to 36,000 AF for dry years from surplus State Project Water from MWD (extraordinary supply water) and imported water (local water). Both types of water are tracked and can be used in dry years.	Started 2021. $128 million project. $8 million provided to 5 Producers for 5 additional wells. 2,000 AF from WY 20-21 in the bank. Partners committed to making surplus SARCCUP water available for MWDOC.
The Metropolitan Water District of Southern California, Cities of Buena Park, Garden Grove, Orange, Santa Ana, Westminster, Yorba Linda Water District, Golden State Water Co., and Municipal Water District of Orange County	MWD Long-Term Groundwater Storage Program	Contract	Ending 2028	Conjunctive use program allows MWD to store up to 66,000 AF of water in the Basin in wet periods to be pumped in dry periods, droughts, or emergencies by groundwater producers in place of receiving imported water supplies during water shortage events. MWD funded 8 wells, improvements to seawater intrusion barrier, and constructed Diemer Bypass Pipeline to redirect lower-salinity imported water from State Water Project to OCWD recharge basin and pays an annual administrative fee.	25-year agreement starting 2003 with goal of 20 billion gallons for dry years and emergencies. Goal is on-track to be met. Cumulative water purchased since WY02-03 is 42,243.1 AF via Forebay Recharge and 57,100.8 AF via In-Lieu Delivery.
U.S. Army Corps of Engineers	Prado Dam & wetlands	Project-by project contracts	Depends on the terms of the project	Various collaborations since construction of Prado Dam in 1941 to increase the volume stored behind the dam and eventually delivered to the Basin.	Ongoing. Currently partnering on Forecast-Informed Reservoir Operations (FIRO) and sediment removal from behind the dam to maximize water conveyed to OCWD facilities with estimated increase of water captured by 7,000 AFY.

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Opportunities for Shared Facilities

The following are opportunities that were made known during preparation of this report for OCWD to share facilities:

- Announced in early January 2023, OCWD received funding from U.S. Bureau of Reclamation for two research projects to test water treatment technologies. The results are anticipated to improve not only the District's future operations and ability to safely recharge the Basin, but the results will be shared with Producers.
    - The first project, "In-Situ Gravity Driven Removal of PFAS During Groundwater Recharge to Protect Drinking Water," will evaluate the performance of an engineered adsorbent media when installed into the ground for the passive removal of PFAS in impacted surface waters that are used to recharge groundwater supplies. Awarded $199,430 in funding, OCWD is the project lead and will collaborate with technical advisors from Colorado School of Mines and Jacobs.
    - The second project, "Improving RO [reverse osmosis] Recovery through Optimization of Flux and Pump Usage with Real-Time Sensor Connectivity, Data-driven Modeling, and Automation," is in partnership with Hazen and Sawyer who was awarded $197,294 in funding. OCWD is supporting the research on site as a test bed location. The project aims to develop predictive algorithms with automated process controls that can optimize RO operational settings to reduce energy, maximize production, and minimize chemical costs while reducing membrane fouling and scaling. RO is the heart of the three-step GWRS advanced purification process.
- OCWD is currently studying the possibility of developing a second emergency water connection to South Orange County water agencies. This may replace or add to the existing emergency water connection via Irvine Ranch Water District. Discussions are underway with Moulton Niguel Water District and City of Santa Ana for the proposed connection. This is to prepare for the potential sunset of the existing emergency agreement via Irvine Ranch Water District in December 2029.
- OCWD is currently studying the extent of seawater intrusion in the City of Huntington Beach at "The Sunset Gap" located between Landing Hill and Bolsa Chica Mesa. OCWD Budget for FY 2023-2024 indicates a plan is being developed to address the issue including potentially building the District's third seawater intrusion barrier.
- PFAS will be a significant focus for OCWD in the immediate future because of the number of wells that lack treatment in areas where PFAS concentrations are known to exist. The District currently estimates up to 102 wells could be impacted

at a cost to OCWD of $550 million.[14] Therefore, to head off the shock of significant increases in the RA for local retail water suppliers to pay for PFAS treatment (estimated at 10 percent per year for 2-3 years), OCWD is pursuing several grant opportunities to fund PFAS treatment projects on behalf of its Groundwater Producers. OCWD has also budgeted to pay for 50 percent of all treatment system operation and maintenance (O&M) costs. Awarded grant applications are:

- Orange County Regional PFAS Groundwater Treatment Program: Cities of Garden Grove and Santa Ana Projects; Proposition 1 Grant amount awarded is $4,200,000.
- OCWD has received a $5,000,000 federal earmark for PFAS.

- Grant applications for the State Water Resources Control Board Drinking Water State Revolving Fund (DWSRF), "State FY 2023-2024 DWSRF Comprehensive List" for treating PFAS are listed below. The following projects have been included in the FY 2024-2025 Intended Use Plan Emerging Contaminants Fundable List:[15]
  - City of Tustin PFAS Water Treatment Plant Project ($5 Million grant)
  - City of Orange Wells 20, 21 and 22 PFAS Treatment Systems Project ($4 Million grant)
  - City of Fullerton Main Plant PFAS Water Treatment Plant Project ($5 Million grant)
  - East Orange County Water District PFAS Water Treatment Plant Project ($5 Million grant)
  - Irvine Ranch Water District Well OPA-1 PFAS Treatment System Project ($3.15 Million grant)
  - City of Anaheim PFAS Water Treatment Systems Project ($5 Million loan)
  - City of Santa Ana Wells 27 and 28 PFAS Water Treatment Systems Project ($4 Million grant)
  - City of Garden Grove Wells 22 and 25 PFAS Water Treatment Systems Project ($6 Million grant)

[14] U.S. EPA announced on April 10, 2024 the final National Primary Drinking Water Regulation for six PFAS with an enforceable level of 4.0 parts per trillion (ppt) for PFOA and PFOS. The final rule requires: (1) Public water systems must monitor for the 6 PFAS and have three years to complete initial monitoring (by 2027), followed by ongoing compliance monitoring. Water systems must also provide the public with information on the levels of these PFAS in their drinking water beginning in 2027; (2) Public water systems have five years (by 2029) to implement solutions that reduce these PFAS if monitoring shows that drinking water levels exceed these MCLs; and (3) Beginning in five years (2029), public water systems that have PFAS in drinking water which violates one or more of these MCLs must take action to reduce levels of these PFAS in their drinking water and must provide notification to the public of the violation. (https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas)

[15] Source: Section XII. https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/2024/2024-25-supp-iup-ec.pdf

- City of Huntington Beach PFAS Water Treatment Systems Project ($6 Million grant)
- City of Westminster PFAS Water Treatment Systems Project ($5.5 Million grant)
  Golden State Water Company Wells SCK5 and SBCH PFAS Water Treatment Systems Project ($5 Million grant)

- The "PFAS O&M Expenditure" is budgeted at $3.5 million. This is consistent with the District's plan to install well head treatment systems incrementally over a multi-year (2.5 years) period, grant awards are often received long after (0.5-1 year) they are applied for, and other funding methods are available including low-interest loans and reserves:
- OCWD and MWDOC continue to share the same office property at 18700 Ward Street in Fountain Valley and, in turn, both benefit from sharing maintenance and overhead costs. The arrangement is spelled out in the Agreement and Lease document, which says the District owns all the land at its Fountain Valley headquarters, including the land under the OCWD and MWDOC buildings (collectively, the "Office Facilities"). OCWD and MWDOC jointly own the Office Facilities: OCWD owns about 66 percent and MWDOC owns about 33 percent. OCWD leases 50 percent of the land under the Office Facilities to MWDOC (PC(3)). Furthermore, as part of OCWD's application to OC LAFCO to prepare this MSR and SOI update, Chapter 5 of this report includes findings of a feasibility study for consolidation between the two agencies.

3.6 Accountability for Community Service Needs

The OCWD Board of Directors represents the interests of 2.5 million residents and the Groundwater Producers within the limits of the District Act.

<u>Governmental Structure</u>

OCWD is divided into 10 Divisions as specified in the District Act. Divisions 1 through 7 hold elections for their Board representative. The method of electing directors was modified by the 1967 amendments to the OCWD Act, which put the vote in compliance with the general election voting laws (California Codes). After this, directors in Divisions 1 through 7 were elected in the geographic regions on the basis of one vote per registered voter. The boundaries of the 10 Divisions are shown on Figure 3. Division boundaries can by adjusted by resolution pursuant to Chapter 8 (commencing with Section 22000 of Division 21 of the California Elections Code).

When the Cities of Anaheim, Fullerton, and Santa Ana were extended membership into OCWD, the cities were considered as individual units, and the boundary of their Divisions was based on the city boundary. These three cities make up Divisions 8, 9 and 10. Each city's governing board (city council) is permitted to name a director that will serve the same term as the elected directors. Therefore, no direct vote of the residents is required within these cities. (OCWD 2014, p. 26)

Appointed members of the Board from Divisions 8, 9, and 10 serve a four-year term and may be removed at any time and without cause by the majority vote of the appointing governing body (OCWD Act, Section 12(b)). Elected members of the board in Divisions 1 through 7 also serve four-year terms and may be re-elected without limits. (OCWD Basin 8-1 Alternative, p. 2-3)

The Board of Directors meets twice a month, normally on the first and third Wednesdays of the month. Board committees also meet on a monthly basis. These committees include the Water Issues, Communication/Legislation, Administration/Finance, Property Management and Retirement. (OCWD Basin 8-1 Alternative, pp. 2-3, 2-4)

OCWD's governing structure is designed to give fair representation of the groundwater producers from within the ten Divisions. The 10 Divisions are comprised of the following areas (OCWD Basin 8-1 Alternative, pp. 2-4, 2-5):

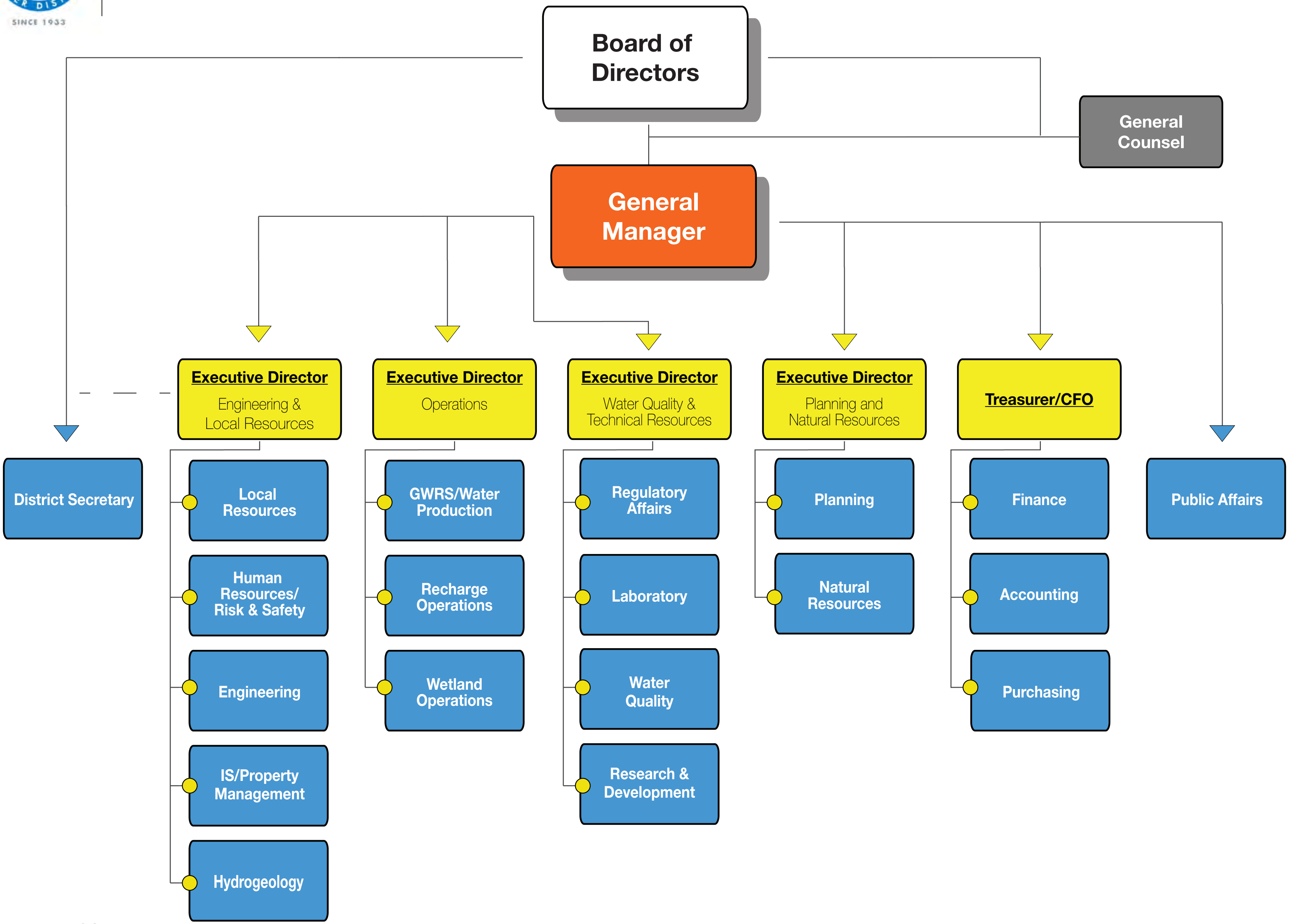
- Division One: Garden Grove, Stanton, Westminster
- Division Two: Orange, Villa Park, and parts of Tustin
- Division Three: Buena Park, La Palma, Placentia, Yorba Linda, and parts of Cypress
- Division Four: Los Alamitos, Seal Beach, and parts of Buena Park, Cypress, Garden Grove, Huntington Beach, Stanton, and Westminster
- Division Five: Parts of Irvine and Newport Beach
- Division Six: Parts of Fountain Valley and Huntington Beach
- Division Seven: Costa Mesa and parts of Fountain Valley, Irvine, Newport Beach, and Tustin
- Division Eight: Santa Ana
- Division Nine: Anaheim
- Division Ten: Fullerton

The 19 Groundwater Producers meet on a monthly basis with OCWD staff.

The OCWD organizational chart for 2023 is shown on the following page.

ATTACHMENT 1

Organizational Structure



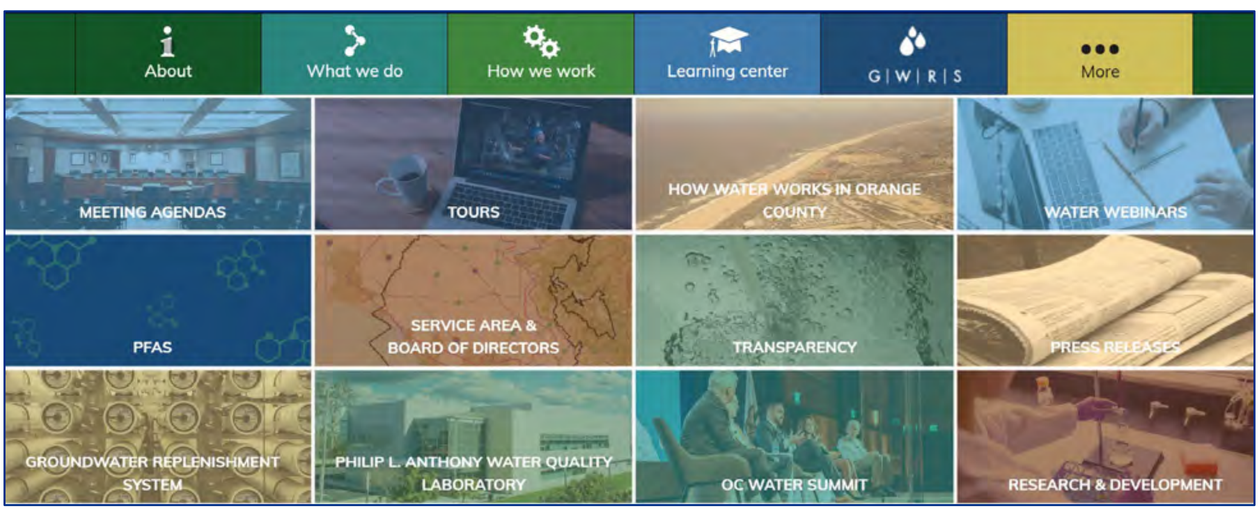
OCWD uses the expertise of many consultants to support its staff, including outside legal counsel, civil engineering consultants to design and oversee construction, landscape maintenance, employee development, safety programs, and more so that OCWD maintains full-time staffing of core employees. As of July 1, 2023, OCWD maintains 226.5 full-time positions in the departments shown on the organizational chart on the prior page.

OCWD staff attend many meetings to gather information and further the interests of the District, including, the Association of California Water Agencies (ACWA), the California Special Districts Association (CSDA), the Independent Special Districts of Orange County (ISDOC), The Metropolitan Water District of Southern California (MWD), the Orange County Water Association (OCWA), the Orange County Business Council (OCBC), the Regional Water Quality Control Board (RWQCB), the Santa Ana Watershed Project Authority (SAWPA), and the Water Advisory Committee of Orange County (WACO).

OCWD staff and lobbyists meet with county, state, and federal representatives to petition for funding opportunities; specifically, they meet with newly elected legislators every two years after the November election cycle.

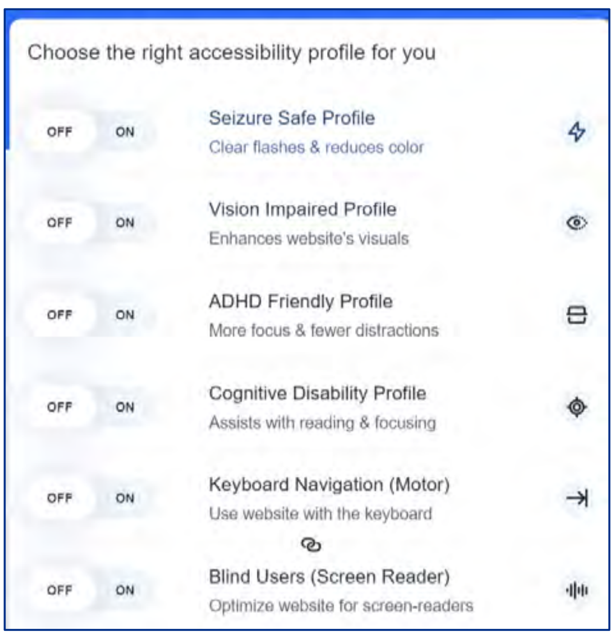
Accessibility, Accountability, and Transparency

The District's website (www.ocwd.com) offers a wide range of information on the District, as well as links to the retail water suppliers within its boundary for the public (see screenshot of Home Page, below).



Snapshot of www.OCWD.com website home page (dated November 7, 2023).

The OCWD Transparency webpage that is accessed through the Home Page shown above, provides access to financial documents (i.e., Annual Budget Reports, Annual Comprehensive Financial Reports, Audits, Annual Rate Assessment, Basin Pumping Percentage, and Statement of Revenues and Expenses), compensation and human resources (i.e., Board stipends and compensation, General Manager's compensation, Salary Structure, CA state Controller's Reports, How to Apply for a Job, Memorandum of Understanding between the District and OCWD Employees Association, and Personnel Manual), water quality and other reports (i.e., GWRS Annual Reports, Environmental Impact Reports and other public notices, local retail agencies' water quality reports, engineer's and groundwater recharge reports, groundwater level contour maps, and studies/publications), ethics (i.e. Conflict of Interest code, Board members and divisions, Board reporting forms), policies and procedures (i.e., Media Policy Rules of Order, Social Media Code of conduct, ticket distribution policy and Board of Directors policies and procedures), and instructions on how to make a public records request. The website also includes agendas, minutes, list of Board committees, the public comment policy, Brown Act, District Act, and a sign-up for public meeting email notices for Board of Directors meetings. As stated on the website, "Agendas for [Board of Directors] meetings are posted a minimum of 72 hours in advance of the meeting. OCWD welcomes productive dialogue with its governing board, utility partners, community leaders, and the public. Visitor participation is included at all agendized meetings. During this time, members of the public may offer public comment for up to three minutes." Furthermore, the OCWD website allows for Accessibility Adjustments, such as those shown in the snapshot to the left, as well as Content Adjustments, Color Adjustments, and Orientation Adjustments. The District also uses YouTube and social media outlets like LinkedIn, Facebook, Instagram, and Twitter. The OCWD Board Secretary's Office ensures compliance with all state laws regarding access to public meetings, public documents, financial disclosure laws, and the Brown Act.[16]



[16] The Ralph M. Brown Act was enacted in 1953 ("Open Meeting Law") to guarantee the public's right to attend and participate in meetings of local legislative bodies (Gov. Code Section 54950).

California Elections Code 22000-22002 requires OCWD to adjust the boundaries of Board Divisions 1 through 7 based on the 2020 census data in order to, as far as practicable, equalize the populations in each of these Divisions. Factors such as topography, geography, cohesiveness, and communities of interest in the District may be considered. Boundary adjustments to all Divisions 1 through 7 were recommended by staff and approved by the OCWD Board of Directors in Resolution No. 22-4-31 (April 6, 2022) following three public hearings (Staff Report, March 16, 2022).

3.7 Other Matters Related to Efficient Service Delivery

In its application to OC LAFCO for an MSR and SOI Update, OCWD requested a feasibility study of a consolidation with MWDOC. The purpose of the feasibility study is to analyze certain aspects of the two agencies using multiple factors to find whether efficiencies in the provision of services could exist upon combining the two wholesale water agencies. Therefore, this MSR includes said analysis with findings; no conclusions or recommendations are provided.

MSR STATEMENT OF DETERMINATIONS

The municipal services provided by OCWD were first comprehensively reviewed by OC LAFCO in 2006. The MSR determinations for OCWD were reviewed and reconfirmed in 2008 and 2013. This section includes the Statement of Determinations for the 2024 comprehensive review of municipal services provided by OCWD. The seven statutory determinations are examined in more detail in Chapter 3 of this report.

RECOMMENDATION:

Staff recommends the Commission adopt the MSR Statement of Determinations for the Orange County Water District as shown on *Exhibit 1* (next page).

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Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

MSR DETERMINATION 1: Growth and Population Projections for the Affected Area

The Orange County Water District (OCWD) sphere of influence (SOI) encompasses 569 square miles including 52 square miles of ocean, 125 square miles of unincorporated Orange County, and includes 27 cities in the northern and central portions of Orange County. Within its Service Area of 430 square miles, OCWD manages the Orange County Groundwater Basin (Basin) and acts as a wholesale groundwater supplier to the retail water suppliers of northern and central Orange County. The Basin provides approximately 85 percent of the drinking water supply to the people within its Service Area.

OCWD has no land use authority and therefore relies on the information provided by the county and cities within its Service Area to estimate future changes in population and land use in order to forecast water demands on the Basin. The District also uses demographic data including projections of population, housing, and employment produced by the Center for Demographic Research (CDR) at California State University, Fullerton. According to CDR, the population of the OCWD Service Area is 2.44 million people as of 2020, which is projected to increase to a peak of 2.55 million people by 2045. (CDR's projection is based on the OCWD Service Area and not the entire sphere of influence of OCWD.) Based on the current and projected increase of approximately 4.5 percent over 25 years, there will be a continuing need for groundwater supplies and OCWD's management of the Basin.

OCWD prepares forecasts of water demands in its annual *Engineer's Report* and periodically in the *Groundwater Management Plan* based on recorded water use patterns and expected constraints on groundwater quality. The retail water suppliers within the Service Area ("19 Groundwater Producers") also prepare forecasts of water demands within their respective service areas and communicate their expected groundwater pumping to OCWD. The present and future needs provided by OCWD are addressed in the annual *Comprehensive Annual Financial Report* (CAFR), *Annual Budget Report*, and annual *Capital Improvement Program* (CIP). The CIP is a multiyear plan of improvements to the District's infrastructure taking into account District priorities, policies, and budget.

Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

Based on review of the data, water demands within OCWD Service Area are expected to be met over the planning horizon of this MSR analysis including the future increase in population, given the following factors: (1) the District's collaboration with CDR to proactively monitor demographic changes in the Service Area and in particular, population growth; (2) District projections accounting for future growth in each Groundwater Producer's service areas; and (3) the District's demonstrated ability to meet greater water demands in the past as compared to current water demands.

MSR DETERMINATION 2: The Location and Characteristics of Any Disadvantaged Unincorporated Communities Within or Contiguous to the Affected Sphere of Influence

The Center for Demographic Research at California State University, Fullerton (CDR) provided information on census block boundaries and the current statewide median household income threshold, from which 11 Disadvantaged Unincorporated Communities (DUCs) within the OCWD sphere of influence (SOI) were identified. Specifically, the DUCs are located within OCWD Division 1 and the SOIs of the Cities of Anaheim, Stanton, and Westminster. The DUCs receive water service from the Cities of Anaheim and Westminster and Golden State Water Company, as well as several private mutual water companies (Hynes Estates Mutual Water Company, Midway City Mutual Water Company, Eastside Water Association, and South Midway City Mutual Water Company). The Cities of Anaheim and Westminster as well as Golden State Water Company are three of the 19 Groundwater Producer Agencies of OCWD. The DUCs total 0.85 square mile (541 acres) and are part of larger urban communities with land uses dominated by residential, commercial, industrial, and recreational uses.

MSR DETERMINATION 3: Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the affected Sphere of Influence.

OCWD was created by a special act of the state legislature in 1933 (the OCWD Act) to manage the Orange County Groundwater Basin (Basin) for the Groundwater Producers. Therefore, in order to balance the effects of groundwater pumping, OCWD

Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

has facilities to maximize recharge of the Basin using local surface water, stormwater runoff, reclaimed wastewater, and imported water supplies. OCWD does not directly serve water to retail customers, such as homes and businesses; therefore, OCWD's facility capacity and sufficient infrastructure relates to water reclamation and recharge facilities for OCWD to fulfill its mandate in the OCWD Act to sustainably manage the Basin.

Managing 85 percent of the water supply for the 2.44 million residents of northern and central Orange County, OCWD performs deliberate planning efforts for maintaining its infrastructure through its Replacement and Refurbishment (R&R) Model. The R&R Model is user-driven and proprietary; it tracks the useful life spans of all the District's infrastructure to prioritize facilities that need repair or replacement. The R&R Model forecasts into the future how much budget will be required for repairs and the annual contribution to the R&R fund increases each year to reflect the increasing costs of maintenance. According to the R&R Model, sufficient funds will be available for maintenance of infrastructure for the next 25 years.

During WY 2022-2023, the Basin showed a net increase of 69,000 acre-feet (AF) attributable to OCWD's network of 25 recharge basins capturing higher-than-average rainfall, and less than expected pumping rates attributable to the presence of PFAS. In regard to capacity, OCWD has several water rights and entitlements to water supplies. OCWD is pursuing an expansion of its water rights to the Santa Ana River flows based on additional capture and storage projects that it recently completed. OCWD also has an entitlement to purchase an amount of imported water up to that which it can recharge, which is a maximum of 300,000 AF (if all of the recharge basins are empty). OCWD has an entitlement to recycled water produced from its Groundwater Replenishment System (GWRS) up to 130 million gallons per day, dependent on the flows received from Orange County Sanitation District (OC San). Based on the results of the water supplies acquired and recharge that occurred in WY 22-23, it can be reasonably determined that the OCWD facilities have sufficient capacity to recharge the Basin.

A total of 11 DUCs have been identified within OCWD. All of the DUCs are located in OCWD Division 1, within the SOIs of the Cities of Anaheim, Stanton, and Westminster. Retail water service is provided to the DUCs by the Cities of Anaheim and Stanton and Golden State Water Company, as well as four mutual water companies (Hynes Estates

Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

Mutual Water Company, Midway City Mutual Water Company, Eastside Water Association, and South Midway City Mutual Water Company). Although the DUCs are located within the Service Area of OCWD, it is the responsibility of the public and private water suppliers to provide adequate water service to the individual customers, including areas identified as DUCs. The retail water suppliers are also responsible for addressing deficiencies in their production, treatment, and distribution systems, including seeking assistance from the State or neighboring agencies. The purpose of this study is not to assess the retail water systems' ability to provide water to their customers. Notably, nothing in the OCWD Act appears to limit OCWD's ability to assist public or private water suppliers within its jurisdiction, including those in disadvantaged communities. The wells owned by the mutual water companies that serve the DUCs are monitored as part of OCWD's Monitoring Program. The California Department of Public Health regulates the water quality of private mutual water companies. The monitoring, record-keeping, and water testing efforts OCWD is providing to these small producers are services that benefit their customers' ability to have water and, in turn, is part of the Basin management OCWD must perform to meet its charge. Because OCWD monitors the water quality of the wells and accounts for the water pumped by both large and small producers including those within the DUCs when making its water demand and water supply projections, and OCWD recharges the Basin with water for small and large producers to access regardless of where DUCs exist, OCWD is meeting the present and probable needs for potable water facilities and services of the DUCs to the extent that it is responsible for. Nonetheless, it is recommended that OCWD make available to some reasonable degree its extensive technical resources when requested by the mutual water companies within a DUC that need help to navigate funding opportunities for system improvements.

The Basin is estimated to hold, when full, roughly 66 million AF of water; however, OCWD limits overdrafting the basin to 500,000 AF. When more than 500,000 AF is removed for longer than a temporary, emergency scenario, adverse effects can occur including seawater intrusion, land subsidence, increased pumping costs, and upwelling of amber colored water. As such, OCWD manages the Basin to keep it at 150,000 to 200,000 AF less than full, which is a little less than one-half of maximum draw down amount of 500,000 AF. Groundwater in the equivalent elevation range keeps seawater from intruding anymore inland then existing, minimizes risk for subsidence, pumps can continue to pump, and amber-colored water stays in the Deep Aquifer.

Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

All pumpers are charged a flat Replenishment Assessment (RA) fee per AF produced. The OCWD Board of Directors issues a Basin Production Percentage (BPP) to pumpers each year that gives them an idea of how much of their total water demands can be met by groundwater. The BPP is currently 85 percent (increased from 77 percent in February 2023). Pumpers who exceed the BPP pay an additional fee called the Basin Equity Assessment (BEA). The combination of the RA, BPP, and BEA are the financial tools OCWD uses to manage the amount pumped from the Basin. However, in recent years a larger influence on pumping rates has been the presence of PFAS chemicals in the groundwater. Pumpers have turned off their wells until treatment systems are installed and, in the meantime, meet customer demands with imported water purchased from the local imported water wholesaler, Municipal Water District of Orange County (MWDOC).

The primary constraint on OCWD's management of the Basin currently and in the future is water quality; specifically, adding treatment systems for PFAS chemicals on Groundwater Producer's wells that need them. The RA has been increased approximately 10 percent each year for the last 3 years to fund the wellhead treatment systems. OCWD has also applied for many grant opportunities to defray the cost to the District and its 19 Groundwater Producers. Another water quality constraint is seawater intrusion; OCWD is planning for a third seawater intrusion barrier. A third constraint for the District is the inability at this time is to capture all of the anticipated storm flows from the Santa Ana River. OCWD applied for a water rights permit for up to 505,000 AFY from the State Water Resources Control Board that would capture the majority of storm flows. The District was granted 362,000 AFY based on the existing facilities and is pursuing additional rights in order to reach 505,000 AFY.

Based on the information provided for this study, it is determined that the present and planned capacity of OCWD's facilities are sufficient; the public services it provides are adequate; and the aforementioned water quality constraints that exist are being addressed cooperatively with retail water suppliers within a reasonable response time to meet anticipated regulations so that OCWD can continue managing the Basin.

Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

MSR DETERMINATION 4: Financial ability of agency to provide services.

The OCWD Fiscal Year 2023-2024 Budget was adopted by the Board of Directors on April 19, 2023, with a total budget of $279.2 million, which represents a decrease of 10.5 percent from the previous year. OCWD's audited budget reports demonstrate that the District is able to maintain a balanced budget, fully funded reserves, and fund capital improvement projects. The District is able to meet all its budgeted expenses and obligations and maintain an AAA credit rating with Fitch and Standard and Poors. Replenishment Assessments represent over 62% of total revenues in Fiscal Year 2023-2024 and can and do increase annually when necessary to help ensure revenues meet expense requirements. This flexibility along with its other revenue sources, budgeted reserves and great credit ratings put OCWD in a stable financial position to continue providing services to its customers.

MSR DETERMINATION 5: Status of, and opportunities for, shared facilities.

OCWD partners with many entities on projects that benefit and further the goals of the OCWD Act. This includes, but is not limited to, OC San, the 19 Groundwater Producers (13 Cities of Anaheim, Buena Park, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, La Palma, Newport Beach, Orange, Santa Ana Seal Beach, Tustin, and Westminster, and 6 water agencies, East Orange County Water District, Golden State Water Company, Irvine Ranch Water District, Mesa Water District, Serrano Water District, and Yorba Linda Water District), MWDOC, County of Los Angeles, Water Replenishment District of Southern California, The Metropolitan Water District of Southern California, the members of the Santa Ana Watershed Project Authority, and U.S. Army Corps of Engineers. The status of shared projects and facilities is well-documented to support the services provided by OCWD.

Partnership opportunities are expected for the future, which may include but are not limited to, a second emergency connection to the South Orange County water agencies, addressing seawater intrusion at the "Sunset Gap" and/or "Bolsa Gap," securing funding for the 19 Groundwater Producers to construct water treatment systems to address PFAS contamination in wells, and paying one-half of all PFAS treatment system operation and maintenance (O&M) costs. The opportunities for

Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

shared facilities continue to evolve at a sufficient pace for the purpose of supporting the services provided by OCWD.

MSR DETERMINATION 6: Accountability for community service needs, including governmental structure and operational efficiencies.

OCWD is an independent special district that serves 19 large Groundwater Producers, many small producers, and roughly 2.44 million northern and central Orange County residents, which are represented by the 10-member Board of Directors.

OCWD is accountable to the service needs of its community through Board-approved policies that support the efficient and transparent operations of the agency. The Board of Directors conducts public meetings twice a month and the Board Secretary ensures compliance with the Brown Act. OCWD staff maintain a robust website that contains a wide range of up-to-date information about the District's meetings, programs, and services, as well as social media, speaking engagements, and school-aged educational programs.

As of October 2023, members of the Board of Directors are paid $330.75 per meeting attended, up to 10 meetings per month. Board members are eligible for medical, dental, vision, and life insurance benefits, and participating in 401(a) and 457 plans.

The District has received many awards for its efforts in providing useful information, as well as promoting transparency and prudent fiscal practices; for example in 2020, the Government Finance Officers Association awarded a Certificate of Achievement in Excellence for OCWD's Comprehensive Annual Finance Report and One Planet awarded three gold medals for PR Campaign of the Year, Publicity Campaign of the Year, and Marketing Campaign of the Year. In addition, awards were received for the District's virtual outreach efforts during the COVID-19 pandemic and an Outreach Recognition Award from the Association of California Water Agencies. OCWD demonstrates sufficient accountability to community service needs including its governmental structure and operations that do not hinder the services provided to its Service Area.

MSR DETERMINATION 7: Any other matter related to effective or efficient service delivery, as required by commission policy.

Exhibit 1
Orange County Water District
Municipal Service Review (MSR)
STATEMENT OF DETERMINATIONS

As part of its MSR and SOI update application to OC LAFCO, OCWD requested a feasibility study of consolidation with MWDOC to be included with the MSR. The findings of this analysis are provided in Chapter 5 of the MSR report.

CHAPTER FOUR | OCWD SPHERE OF INFLUENCE REVIEW

4.0 Sphere of Influence History

Gov. Code Section 56076 defines Sphere of Influence as, "a plan for the probable physical boundaries and service area of a local agency, as determined by the commission." The Sphere of Influence (SOI) for OCWD was originally adopted on November 23, 1977; it was last modified in 2008 as part of the first cycle of MSRs, and last reviewed by OC LAFCO on February 13, 2013 as part of the third cycle of MSRs.

The current SOI for OCWD totals 569 square miles, which includes 52 square miles of ocean. Approximately 139 square miles of the SOI (on land) is outside of the District's current Service Area, as shown on Figure 2. OCWD does not have facilities nor provide services beyond its current Service Area of 430 square miles. OCWD has indicated to OC LAFCO that it does not request any changes to the SOI at this time, although it should be acknowledged that OCWD has filed an application with OC LAFCO to conduct an MSR that reviews the feasibility of the consolidation of the District and MWDOC. Subsequent actions to the MSR initiated by either district may involve changes to the respective SOIs.

There are currently 11 DUCs within the SOI. They are all within OCWD Division 1 where unincorporated County land abuts the Cities of Anaheim, Stanton, and Westminster. Potable water service is provided to the DUCs by a combination of public water systems that are members of OCWD (i.e., Groundwater Producers) and private water companies on wells. There are no Williamson Act Contracts currently within the OCWD SOI.[17]

Since its formation in 1933, there have been approximately 45 separate annexations affecting the OCWD jurisdictional boundary. The geographic span of OCWD's Service Area on land has increased nearly 50 percent from the original 162,676 acres to its current Service Area of 241,920 acres. Sections 50 through 64 of the OCWD Act contain the District's annexation policy and procedures. Sections 65 through 74 of the OCWD Act describe the District's policy for the exclusion of lands from the District's jurisdictional boundary.

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[17] The California Land Conservation Act of 1965 (Williamson Act) enabled local governments to enter into contracts with private landowners to restrict the use of their land to agricultural or related open space use, in return for reduced tax assessment based on farming/open space instead of full market value.

4.1 Present and Planned Land Uses

Figure 1 depicts the current OCWD SOI totaling approximately 569 square miles. The land use authorities within the SOI include the County of Orange and the 27 incorporated cities as shown in Table 8.

Table 8: Land Use Authorities in OCWD Sphere of Influence

OCWD	Incorporated Cities	County of Orange	Ocean	Total
SOI: Within Service Area	23 cities 343 sq.mi.	35 sq.mi.	52 sq.mi.	430 sq.mi.
SOI: Outside Service Area	13 cities 49 sq.mi.	90 sq.mi.	0	139 sq.mi.
Total	27 cities 392 sq.mi.	125 sq mi.	52 sq.mi.	569 sq.mi.

Land use data was obtained from the cities and county as part of this analysis. Because each agency categorizes land use types differently, each one was manually grouped into simple categories of residential, commercial, industrial, public facilities, mixed use, right-of-way, and open space. Results suggest that open space (including a combination of conservation, recreational, agricultural, and water uses) making up 63 percent of the area analyzed, is the predominant land use type within the SOI outside the Service Area.

Notably, a majority of the Cities of Laguna Woods and Lake Forest are within the OCWD SOI but both are fully outside of the OCWD Service Area. El Toro Water District is the potable water supplier to Laguna Woods and part of Lake Forest. Its water supply source is 100 percent from MWD imported water purchased from MWDOC. Irvine Ranch Water District provides potable water service to the portion of Lake Forest not served by El Toro Water District. Its water supply comes mostly from groundwater in the OC Groundwater Basin, as well as recycled water, surface water, and MWD imported water purchased from MWDOC. The City of Laguna Hills is partially within the OCWD SOI but receives its water from El Toro Water District.

One accomplishment of the May 14, 2008 SOI Update for OCWD was to align the SOI closer to the Santa Ana River Watershed boundary in the southern part of the District where "OCWD identified those lands that drain into and provide surface water that replenishes the groundwater basin" (OC LAFCO 2008). To be clear, the District's SOI does not fully align with the watershed boundary; for example, the Laguna Coast Wilderness Park is technically within the watershed, but because it drains away from the Basin, the area was not included in the SOI modifications (OC LAFCO 2008, p. 2). In addition, the watershed boundary is not coterminous with the OC Groundwater Basin boundary (Figure 1), resulting in some communities that happen to be fully or partially within the watershed boundary but are not within the groundwater basin; for example, Laguna Hills and Laguna Woods, and therefore are not receiving their water from the Basin. Nonetheless, this study recommends no changes to the OCWD SOI and it should remain as currently mapped by OC LAFCO (Figure 1). The land uses for the part of the SOI that is outside of the OCWD Service Area and represents areas where no services are provided by OCWD, is outlined in Table 9. The majority land use type in this area is Open Space.

Table 9: Land Use Types within OCWD Sphere of Influence but Outside of Service Area

Land Use	County	Aliso Viejo	Anaheim	Brea	Fullerton	Irvine	Laguna Hills	Laguna Woods	Lake Forest	Newport Beach	Orange	Placentia	Tustin	Yorba Linda	Total (acres)
	(acres)														
Commercial	-	-	-	398	-	17	83	88	422	1	-	-	-	46	**1,055**
Industrial	-	-	-	493	-	41	-		614	-	-	-	-	31	**1,179**
Mixed Use	-	-	-	248	-	50	262		363	-	-	-	33	-	**956**
Open Space*	43,555	6*	2,431	1,422*	-	8,320*	62*	328	2,313	295*	376*	-	-	238	**59,346**
Public Facilities	2,571	4	2	229	-	75	8		268	7	100	-	-	-	**3,264**
Residential	11,516	92	5	3,288	65	2,513	319	683	2,969	41	729	15	-	-	**22,235**
Rights-of-way	-	1	-	-	-	396	-	48	473	4	143	-	-	96	**1,161**
Total (acres)	**57,642**	**103**	**2,438**	**6,078**	**65**	**11,412**	**734**	**1,147**	**7,422**	**348**	**1,348**	**15**	**33**	**411**	**89,196**

Notes: * When asterisk is included, Open Space includes recreational land uses in addition to preserved/conserved areas. Agriculture and Water Bodies are included in this category for Irvine.

Source: GIS data was obtained from each agency's website or directly from city staff in December 2023. Values are rounded to nearest whole number.

The land use designations shown in Table 9 represent the local jurisdiction's currently approved land use plan, which should ideally reflect the existing as well as the future land uses planned for the area. Non-conforming land uses currently in-place would not necessarily be represented in these land use totals and figures (e.g., homes in areas now zoned for industrial, etc.).

The land uses for the OCWD Service Area are tallied on Table 10. This data was obtained from agency websites and/or directly from agency staff in December 2023/January 2024. Land use types were manually grouped into general categories to give an approximate estimate of each. Open Space land uses (including water, active and passive parks, golf courses, etc.) follows Residential land uses as the second most common type of land use within the OCWD Service Area.

Table 10: Land Use Types within OCWD Service Area

Land Use	County	Anaheim	Brea	Buena Park	Costa Mesa	Cypress	Fountain Valley[e]	Fullerton	Garden Grove	Huntington Beach	Irvine	La Palma	Los Alamitos	Newport Beach	Orange	Placentia	Santa Ana	Seal Beach	Stanton	Villa Park	Westminster	Yorba Linda	Total (acres)
	(acres)																						
Commercial	57	2,345	0.06	841	1,256	232	-	803	335.3	570	1,585	28.3		945	926	244	2,527	159	206	12		Access to the City' s GIS files was limited to a services layer and analysis tools could not be used. Approximately 97% of the City is within the OCWD Service Area.	**13,940**
Industrial	-	2,767	0.15	585.4	1,026	24	-	1,220	575.8	1,128	5,796	57	275	42	1,113	298	2,298	172	187	-	593		**17,289**
Mixed Use	-	825	0.02	322.2	150.5	815	-	333[a]	1,070	638	406	119	1,501	384	543	-	674	-	12	-	571		**8,364**
Open Space*	11,542	5,216*	1.8	449.2	554	182	460.5	2,306*	355.3	3,274	6,506[c]	14	82	2,800	5,683	111	994	1,365	105	28	121		**42,150**
Public Facilities	524	1,201	-	-	1,263.4	499	-	851	726.5	1,615	2,291	119	**	419	808	212	-	77.1	99	-	452		**11,157**
Residential	10,076	16,532	13.6	3,012	3,793	1,624	-	6,044	5,833	8,066	12,862	502	1,403	4,080	8,627	2,504	7,522	1,026	971	1,306	3,218		**99,015**
Rights-of-way	-	147	-	-	-	881	-	136[b]	2,568	3,682	1,309	60	340	124	120	47[b]	4	-	377	-	1,880		**11,675**
Total (acres)	**22,199**	**29,032**	**15.6**	**5,210[d]**	**8,045[d]**	**4,257**	**461**	**11,692**	**11,464**	**18,972**	**30,754**	**899[d]**	**3,601**	**8,794**	**17,820**	**3,416**	**14,018**	**7,134.5[g]**	**1,985[f]**	**1,346**	**6,836**		**208,000**

Notes: Values are rounded to nearest whole number.
* When asterisk is included, Open Space includes recreational land uses in addition to preserved/conserved areas.
**Included in Mixed Use category.
Source: GIS data was obtained from each agency's website or directly from city staff in December 2023.
(a) includes Specific Plan land use designation.
(b) includes Railroad land use designation.
(c) includes Agricultural land use designation.
(d) Values are net acres and therefore exclude unparcelled rights-of-way, including roadways and freeways, and parcels without land use designations.
(e) City of Fountain Valley General Plan EIR (June 2023) does not summarize land use areas other than the total area and the open space. Electronic files of the General Plan land use plan were not available.
(f) Includes 29 acres of vacant land of unknown designation.
(g) Includes 4,336 acres of Military land use type.

According to the California Department of Conservation's Farmland Mapping and Monitoring Program, there are approximately 4,370 acres (7 square miles) outside the Service Area and 6,142 acres (9.5 square miles) within the Service Area of Prime Farmland, Farmland of Statewide Importance, Grazing Land, and Unique Farmland within the SOI (based on best available data dated 2018), as summarized in Table 11 and shown on Figure 7.

Table 11: Mapped Farmland Categories in OCWD Sphere of Influence

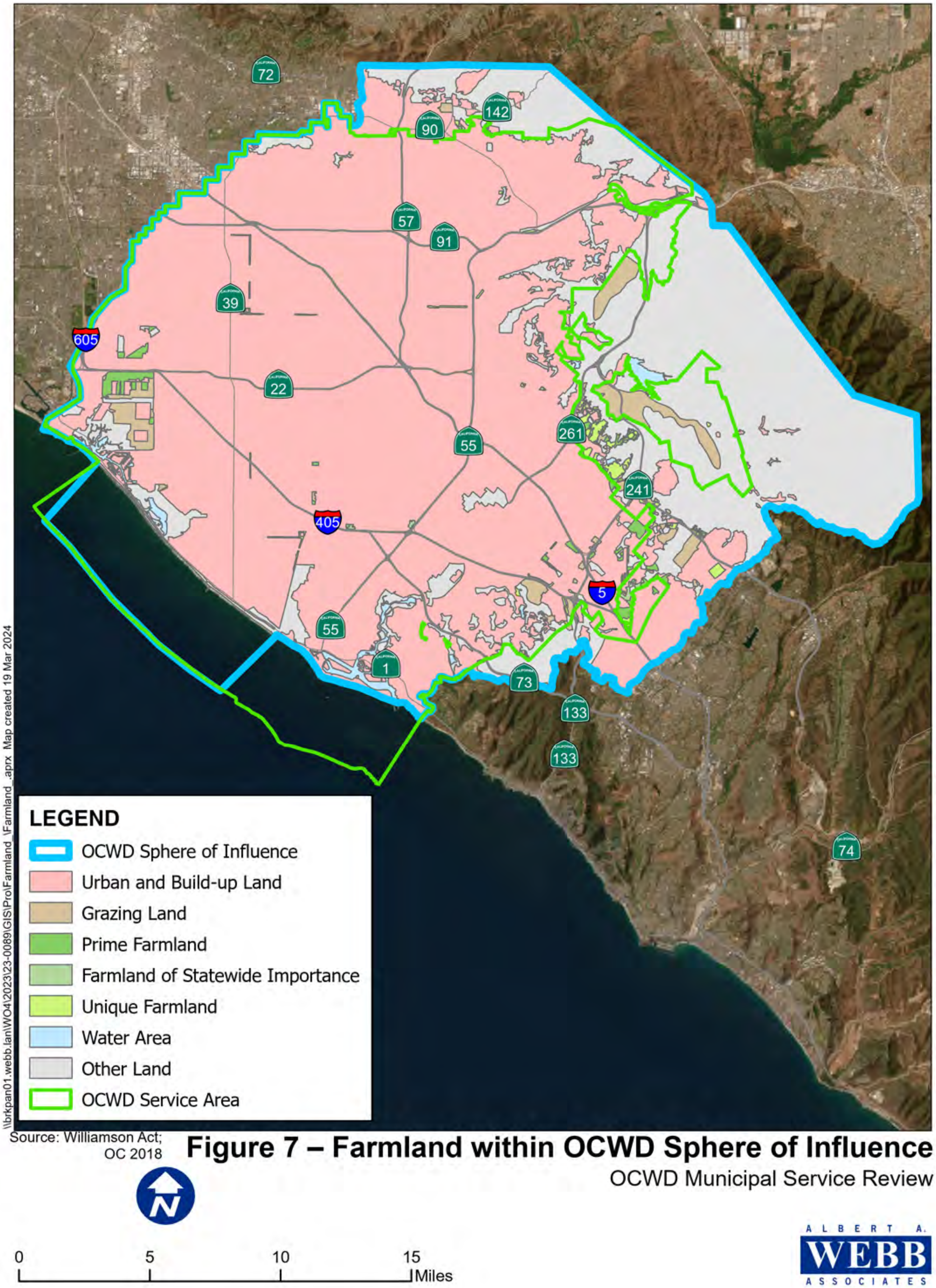
Farmland Categories	Acres within OCWD Sphere of Influence Within Service Area (2018)	Acres within OCWD Sphere of Influence Outside of Service Area (2018)
Prime Farmland	1,428 (2.2 sq.mi.)	660.3 (1.0 sq.mi.)
Farmland of Statewide Importance	66 (0.1 sq.mi.)	239.3 (0.4 sq.mi.)
Unique Farmland	471 (0.7 sq.mi.)	1,158.2 (1.8 sq.mi.)
Grazing Land	4,177 (6.5 sq.mi.)	2,312.7 (3.6 sq.mi.)
Urban and Built-up Land	207,815 (325 sq.mi.)	16,752.3 (26.2 sq.mi.)
Other Land	27,889 (44 sq.mi.)	66,992.1 (105 sq.mi.)
Water	2,219 (3.5 sq.mi.)	631.5 (1.0 sq.mi.)
Ocean	31,457 (49 sq.mi.)	0
Total[a]	**275,523 (430 sq.mi.)**	**88,746.2 (139 sq.mi.)**

Farmland Definitions	
Prime Farmland	Farmland with the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.
Farmland of Statewide Importance	Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.
Unique Farmland	Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated but may include unirrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.
Grazing Land	Land on which the existing vegetation is suited to the grazing of livestock. This category was developed in cooperation with the California Cattlemen's Association, University of California Cooperative Extension, and other groups interested in the extent of grazing activities.
Urban and Built-up Land	Land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial, construction, institutional, public administration, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes.

Other Land	Land not included in any other mapping category. Common examples include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry or aquaculture facilities; strip mines, borrow pits; and water bodies smaller than forty acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as Other Land.
Water Area	Perennial water bodies with an extent of at least 40 acres.

Source: California Department of Conservation Farmland Mapping and Monitoring Program Important Farmland Categories website, https://www.conservation.ca.gov/dlrp/fmmp/Pages/Important-Farmland-Categories.aspx.

(a) The area analyzed in this table is the same general area analyzed in the prior land use table (Table 7); however, the total acreages do not match exactly which is attributable to boundaries representing different time periods and rights-of-way.



Source: Williamson Act; OC 2018

Figure 7 – Farmland within OCWD Sphere of Influence

OCWD Municipal Service Review

4.2 Present and Probable Need for Facilities and Services

OCWD's present need for facilities and services is represented by the 19 Groundwater Producers and approximately 2.5 million residents in north and central Orange County that receive part or all of their potable water from the OC Groundwater Basin. Probable future needs are represented by the projected population growth in Table 3 and land use plans in Tables 9 and 10 and Figure 6.

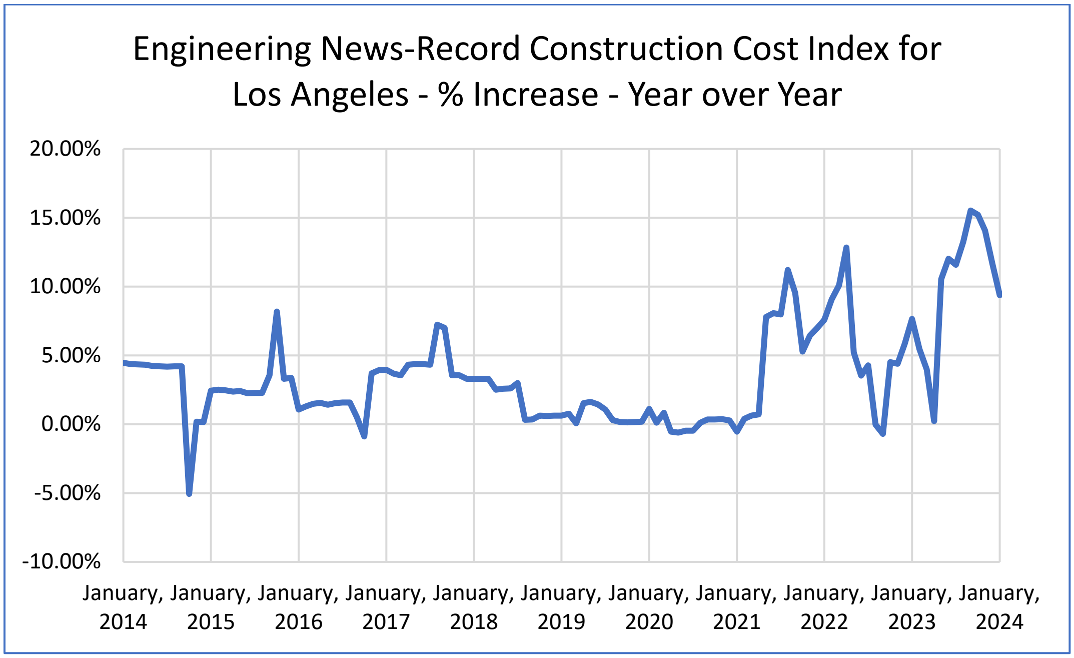
There is a present need for OCWD to remediate contamination within the soil and groundwater of the Basin in order for Producers to use the groundwater. With regulatory oversight from U.S. EPA, the District is targeting a plume of volatile organic compounds (VOCs) that underlies portions of Fullerton, Anaheim, Placentia, and Buena Park (North Basin Superfund Site.) A feasibility investigation is expected in 2024 that will guide a remedial action plan. The District is also targeting VOC and perchlorate contamination underlying portions of Irvine, Santa Ana, and Tustin (South Basin Groundwater Protection Project). The remedial investigation and feasibility study are completed, and the remedial action plan is undergoing CEQA review. This underscores the importance of regular well monitoring and acting quickly to start the cleanup process.

Similar to the need to address contamination, brackish groundwater (when fresh water is mixed with seawater) can render drinking water wells inoperable. Monitoring seawater intrusion and taking actions to minimize the degree of intrusion is a present need for OCWD. The District has two seawater barriers, the Alamitos and Talbert Barriers, which were built in 1964 and 1975, respectively. The barriers are a line of injection wells where recycled water is injected into the ground to push back the intrusion of seawater. The District is investigating a third location called the Sunset Gap where monitoring data suggests seawater has migrated inland and impacting a Huntington Beach well.

The facilities and projects the District has or is planning to have in order to meet present and probable needs for groundwater from the Basin are listed in Tables 5 and 7 in Sections 3.3 and 3.5 of the MSR report. To plan for future repairs and replacement of existing facilities (i.e., probable needs), the District maintains an impressive Replacement and Refurbishment (R&R) program model. The R&R model is interactive so that assumptions/constraints can be changed before it forecasts what will be needed each year in expenses. Funding for R&R projects comes primarily from RA revenue and a small portion from investment revenue. Transfers to the R&R Fund from operational revenues are increased by 7 percent each year. The model and listed assets are reviewed by department heads annually in order to forecast expenses for things that have lifetimes such as pumps, pipelines, and membranes. The model has about 1,700 entries in the infrastructure asset list (infrastructure that can be repaired or replaced) and approximately 152 entries with expired useful lives (e.g., tractors purchased in 1985, etc.).

Given recent increases in the cost of construction, according to the Engineering News Record Construction Cost Index for Los Angeles, as shown in Chart 11, the District should consider adjusting its model to reflect higher costs of construction as well as delays in procuring equipment from overseas.

Chart 11 – Construction Cost Index, Jan. 2014 – Jan. 2024



Total capital investment by the District as of 2022 was approximately $1 billion to $1.5 billion, which is a significant addition of assets to the R&R model, but not all of these assets will need to be repaired or replaced. The R&R model currently forecasts that sufficient funding will be available for the repairs and replacement needed for the next 25 years, including the recent capital investments.

The R&R model is one method the District uses to plan for present and probable needs for facilities and services within its jurisdiction. Another method is the annual Capital Improvement Program (CIP). The CIP is a five-year budget for a list of OCWD projects identified to support its mission. Being on the list does not guarantee a project will proceed; several stages of approval by the Board of Directors will bring a project to fruition. In the fiscal year 2023-2024 budget, the CIP has 19 projects totaling $101.1 million. Funding for the CIP comes from long-term debt, grants, and $47.7 million of the FY 23-24 budget will come from RA revenue or current revenue (called “PAYGO”) to minimize debt service costs.

Of OCWD's 19 CIP projects, 13 are PFAS treatment systems for Irvine Ranch Water District and East Orange County Water District, and the Cities of Anaheim, Tustin, Orange, Fullerton, Santa Ana, and Garden Grove. Two CIP projects are related to seawater intrusion, one is for modernizing in-house research and development equipment, two projects are related to remediation of contaminated soil or groundwater, and the last CIP project is constructing monitoring wells (FY23-24 Budget, Table 8-2). The CIP projects demonstrate current priorities for the future that address both present and probable need, as well as the planned funding sources.

There is a present need from the Groundwater Producers to equip wells with treatment methods that will reduce certain PFAS chemicals in anticipation of a federal limit to be issued by the U.S. EPA. Since 2020, OCWD has planned for PFAS treatment systems. Initially, 61 wells needed treatment and up to 200 wells could be impacted at a cost of $550 million to OCWD if U.S. EPA establishes a 4 ppt MCL. Currently, 30 of the 61 wells are back in operation with treatment, another 22 are under construction, and the remaining wells are in design. Each PFAS treatment system project requires roughly 2.5 years from design to construction, at a cost of roughly $5 million each. Another 45 wells are planned for completion in the next few years. It is fortunate for all water agencies facing this scenario that PFAS can be removed with known and tested technology. Considering that the District's current reserves are about $247 million (projected year-end fiscal year 2022-2023), the cost for OCWD to meet the MCL will need to be a dominant component of both the budget and grant procurement for the next several years. Increases in the RA to cover this cost are planned in the amount of 10 percent annually for 2-3 years.

For fiscal year 2023-2024, OCWD has budgeted $3.5 million for its share of PFAS O&M expenses and grant funding revenue in the amount of at least $5 million to help defray the cost to meet this future MCL. The U.S. EPA Water Infrastructure Finance and Innovation Act (WIFIA) program awarded the District a low-interest loan that OCWD can also use for PFAS treatment systems expenses. Although OCWD is party to a class-action lawsuit against the manufacturers of PFAS chemicals, OCWD's fiscal year 2023-2024 budget conservatively plans for zero settlement monies to be received.

To meet the need for the service it provides, OCWD invests in projects that recharge more water into the Basin and projects that improve the quality of the water pumped from the Basin. The GWRS and Green Acres Project collaborations with OC San, for example, currently meet the demands of 83 mgd and 3.4 mgd of recycled water that is suitable for groundwater recharge and irrigation, respectively (Table 5). Operating these projects at full capacity could produce up to 130 mgd and 7.5 mgd of supply, respectively (Table 5). If these projects were not in place, then effluent from OC San would be discharged to the ocean and it would not benefit the Basin. Irrigation water would have been supplied from potable water. An equivalent amount of water supply would have to be obtained from elsewhere to recharge the Basin and to irrigate, such as purchasing more imported water or diverting more surface water; or another approach could be decreases in the BPP combined with increases in the RA and BEA to incentivize less pumping depending on how much overdraft was occurring.

Reclamation and reuse of wastewater that would have otherwise been discharged to the ocean is one way the District is planning for present and probable needs for its services. Another method is working with the U.S. Army Corps of Engineers (USACE) at Prado Dam to find ways to increase the amount of water that can be stored behind Prado Dam. OCWD owns the land behind the dam and holds the water rights, but USACE operates the dam. OCWD estimates approximately 7,000 AFY of storm flows could be captured that would have otherwise been released downstream to the ocean. This is done with a management strategy called Forecast Informed Reservoir Operations (FIRO) to better inform the USACE when to release or retain water behind the dam by using better weather forecasts. For example, a pending storm might normally trigger a release of water to meet a set reservoir depth, but with FIRO, the forecast will guide the release volume to maximize the volume that can be held behind the dam and to avoid releases that are not necessary. FIRO is still being tested by USACE and other agencies. OCWD's proactive involvement in testing this new operational strategy speaks to planning for present and future needs for recharge water.

OCWD has not indicated an intention at this time to apply for or request changes to its Service Area boundary, nor its SOI boundary. If OCWD has a reason in the future to request a change in its Service Area boundary or its SOI boundary, then an application to OC LAFCO will be required. Because the District does not provide services outside of its Service Area, it does not have present or planned needs beyond those already planned for.

The City of Brea is within OCWD's SOI but is not within the District's existing Service Area and therefore Brea is not one of OCWD's 19 Groundwater Producers. At this time, the aforementioned conditions described in the May 14, 2008 SOI Update (see Section 3.0) have not occurred (i.e., groundwater flowing into the OC Groundwater Basin from Brea and subsequent groundwater pumping by Brea). In addition, the existing OCWD Annexation Policy only allows annexation of land into the Service Area from the District's existing 19 Producers, of which Brea is not a part. Therefore, no probable need for expansion of the Service Area into Brea is known at this time.

Based on the information reviewed for this study, OCWD demonstrates adequate facilities and planning efforts to meet present and probable needs for services in the future through financial, maintenance, and operational planning activities.

4.3 Present Capacity and Adequacy of Facilities and Services

The present capacity of facilities and services provided by OCWD within its Service Area are discussed in Section 3.3 (Table 5). According to OCWD, the District has no facilities and provides no services within the portion of its SOI that is outside of the Service Area. If a need arises for facilities and services to extend beyond the current Service Area and into the SOI, then OCWD will need to prepare appropriate studies to determine adequate capacity to meet expected demands, as well as request annexation from OC LAFCO.

The sources of water supply for the Basin include Santa Ana River flows, rainfall, recycled water, and imported water. The District makes a projection each year of what it expects to get from each of these sources. Constraints on these supplies include droughts, reductions in river flows, water quality limitations, and restrictions on available imported water supplies. On the other hand, as urbanization continues upstream of Prado Dam, more flows in the river are expected in the form of base flow (i.e., wastewater discharges) and storm flows (i.e., from more impervious surfaces). But when storm flows exceed the capacity of diversion facilities, river water that would have been recharged is lost to the ocean.

<u>Water Rights and Entitlements</u>

OCWD has certain water rights and entitlements that define maximum thresholds for water supplies. First, OCWD has a right to an average of 42,000 AFY of base flow at Prado Dam and all storm flow reaching Prado according to the 1969 Judgment.[18] For reference, the actual base flow plus storm flow from the Santa Ana River in WY 21-22 was 108,200 AF. OCWD also holds a permit from the State Water Resources Control Board (SWRCB) for an appropriative water right to divert water from the Santa Ana River for groundwater recharge in the amount of 362,000 AFY (A031174). The District's request for an additional 143,000 AFY is held in abeyance (A031174B) until the facilities to capture this additional amount are completed.

In 2023, OCWD submitted a report to SWRCB indicating the completion of projects so that an additional 49,980 afy can be diverted and stored. The SWRCB is currently reviewing the request to include this amount in the granted 362,000 afy, potentially raising OCWD's water right to 411,980 afy, with the remaining 93,020 afy still in abeyance. Discussions with the SWRCB are ongoing, exploring the possibility of granting OCWD more time to further expand its diversion and storage capacity, further augmenting its water rights to Santa Ana River flows at Prado Dam.

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[18] Orange County Water District v. City of Chino, et al., Case No. 117628-County of Orange, entered by the court on April 17, 1969. The Judgment became effective on October 1, 1970.

In addition to the Santa Ana River, OCWD has a diversion permit issued by SWRCB on September 25, 1984 to divert water from Santiago Creek and Alameda Storm Channel to the Santiago Basin (A027261).

OCWD has an entitlement as a member agency of MWDOC to purchase MWD imported water from MWDOC. The maximum purchase amount would be equivalent to the maximum amount that could be recharged, which is about 300,000 AFY if all of the recharge basins were emptied, and therefore unrealistic. OCWD purchases what it can put to use, which varies from year to year.

OCWD has an entitlement to the recycled water produced by the GWRS facility, which was expanded in January 2023 from 100 mgd to 130 mgd of treatment capacity. The amount produced by GWRS is limited by the amount provided by OC San, not including treatment losses. For example, 175 mgd from OC San converts to 130 mgd from GWRS. When OC San completes construction at Plant 2, then recycled water produced by GWRS will increase up to 130 mgd.

<u>Present Capacity</u>

At the end of WY 2021-2022, a shortfall of 10,000 AF existed as the difference between the volume pumped and the volume replenished in the Basin. With this shortfall, the Basin held 258,000 AF of the maximum 500,000 AF. The largest discrepancy between the District's projected and actual water supplies for WY 2021-2022 occurred in Incidental Recharge, which represents rainfall. In WY 2021-2022, roughly half of the 35-year rainfall average fell at the OCWD offices, resulting in 35,600 AF of anticipated water that did not materialize. Had the rainfall occurred, OCWD would have had capacity for it in the recharge facilities and in the Basin. Instead, OCWD purchased water for recharge from MWDOC in the amount of 23,000 AF.

<u>Adequacy of Facilities and Services</u>

The Basin was refilled by OCWD in the four years prior to WY 2021-2022 because they were wet years, and filling in wet years to draw down in dry years is the planned operational strategy for the Basin. The District's existing water rights and entitlements have provided for sufficient ability to replenish the Basin and maintain the ability of producers to pump what they require. Combined with the District's mission to procure as many local sources of water supply as economically as possible including planned increases in river water diversions and GWRS production of recycled water that are well within the District's rights and entitlements will bolster the District's ability to meet its mission into the future.

Any applications to OC LAFCO that would change a SOI resulting from this study's findings will warrant another review of the adequacy of facilities and services.

4.4 Social or Economic Communities of Interest

Unincorporated County

There are approximately 35 square miles of unincorporated County within the District's 430-square mile Service Area, including 0.85-square mile (541 acres) of DUCs (Figure 4). Potable water is supplied to land uses within unincorporated areas by local retail water providers, both large and small (i.e., Groundwater Producers and mutual water companies). It is the responsibility of the local retail water provider to maintain a functioning distribution system that delivers water that meets state and federal drinking water standards. OCWD has shown itself to be a good partner to the Groundwater Producers for collaborations on projects that have mutual benefits.

DUCs

Disadvantaged unincorporated communities (DUCs) are communities located in both an unincorporated county area and a census block reporting a median household income that is 80 percent or less than the statewide median household income. The CDR assisted in this study to determine 11 DUCs within the OCWD SOI that meet these criteria (Figure 4). They are all located within Division 1 of the OCWD Service Area and total 0.85 square mile (541 acres). The water suppliers to the DUCs include the Cities of Anaheim and Westminster, Golden State Water Company and four mutual water companies.

OCWD's Monitoring Program includes the wells used by the water suppliers to the DUCs. Water quality testing is performed, and pumping rates are recorded every 6 months by OCWD in order to monitor the quality and quantity of water in the Basin. Mutual water companies are discussed in detail in the following section.

Mutual Water Companies

Mutual water companies are private, not-for-profit organizations that are organized under California Corporations Code 14300. They are regulated by the U.S. EPA Safe Drinking Water Act, California Department of Public Health, State Water Resources Control Board, California Water Code, and Health and Safety Code and they report their boundaries to LAFCOs. Mutual water companies have shareholders instead of customers and annual shareholders' meetings with financial reports must be held. They are typically small in size and were often organized at a time when there was not a regional public water system available to connect to and they often rely on a limited supply source, such as one well. There are currently nine mutual water companies within the OCWD SOI, as shown in Table 12.

Table 12: Mutual Water Companies in OCWD Sphere of Influence

Mutual Water Company Name	City or County	System Number	In OCWD's Monitoring Program?[a]	WY 21-22 Non-Irrigation Pumping (AF)[c]
Crescent Water Association	Anaheim	CA3000811	No	<25
Eastside Water Association[b]	Unincorporated	CA3010008	Yes	201.8
Hynes Estates Mutual Water Company[b]	Unincorporated	CA3000519	Yes	79.4
Knott's Berry Farm	Buena Park	CA3000734	Yes	197.2
Liberty Park Water Association	Huntington Beach	CA3000618	Yes	<25
Los Alamitos Race Track	Cypress	CA3000819	Yes	245.1
Midway City Mutual Water Company[b]	Unincorporated	CA3010097	Yes	100.2
Page Avenue Mutual Water Company	Fullerton	CA3000585	Yes	<25
South Midway City Mutual Water Company[b]	Unincorporated	CA3000825	Yes	71.2

Notes: WY = Water Year; AF = acre-feet

Recent consolidations include: Diamond Park Mutual Water Company with City of Santa Ana; Houston Avenue Water Association with City of Anaheim; and Old Pirate Lane Water Company with City of Huntington Beach.

(a) According to the list provided in Appendix A of the 2017 Basin 8-1 Alternative.

(b) Mutual water companies with shareholders located in at least one of the DUCs in the OCWD SOI.

(c) The BPP applies to producers who pump more than 25 AF per WY.

The companies in Table 12 are a mix of small producers that pump less than 25 AF of water per year and those who pump more but are not one of the large producers. The wells utilized by all but one of these mutual water companies are included in the OCWD Monitoring Program and meter data is collected by OCWD every 6 months to account for how much they pump from the Basin. However, OCWD is not actively testing their water quality on a regular basis for concentrations of PFAS.

Senate Bill (SB) 88 (2015) added sections 16680-116684 to the California Health and Safety Code, allowing the State Water Resources Control Board to require certain water systems that consistently fail to provide safe drinking water to consolidate with, or receive an extension of service from, another public water system. The consolidation can be physical or managerial. SB 552 (2016) expands the state's authority to include state small water systems and mobile home parks. The state has long encouraged the voluntary consolidation of public water systems where possible but mandatory consolidation can only be used when all of the following criteria are met: located in a disadvantaged community, "documented" water quality or quantity issue exists; and a functional water system is nearby that can serve the subsumed system (Fact Sheet 2021).

The current ability or functionality of the mutual water companies listed in Table 12 was not investigated for this study nor were their water quality test results. OCWD previously assisted with the consolidation of a failing private water system with the City of Santa Ana (Diamond Park Mutual Water Company) in 2014. Santa Ana was willing to subsume the mutual water company and secured funds for new piping and infrastructure to upgrade the system and decommission the company's well. OCWD has tested small producers for PFAS in a few isolated instances when the small producer received an order to do so from state regulators (PC(3)).

Nothing in the OCWD Act appears to restrict the District from engaging with mutual water companies within its jurisdiction for the benefit of the basin, specifically, to "act jointly with or cooperate with…private corporations…to carry out the provisions and purposes of this act" (Section 2, Item 11). To the extent that it is feasible, OC LAFCO can engage with the State Water Resources Control Board and mutual water companies in Orange County on funding opportunities to review facilities, costs, and rates and identify potential service alternatives to facilitate adequate and quality water to the respective communities. Any applications to OC LAFCO resulting from this study's findings that would change an SOI will warrant another review of social or economic communities of interest.

4.5 Present and Probable Need for Services to DUCs

A total of 11 DUCs have been identified in Division 1 of OCWD's Service Area as discussed in Section 4.4. In addition, five mutual water companies are within the OCWD SOI in addition to the four that serve portions of the DUCs (Table 12). There is a probable need in the future for consolidation of the mutual water companies that serve portions of certain DUCs with their neighboring large public water supplier. When the proposed MCL for PFAS (specifically, PFOA and PFOS) of 4 ppt goes into effect, small producers will be testing their water for this constituent, and then based on the results weighing their options. In light of this, this study recommends OCWD to avail its technical resources if requested by the small producers in disadvantaged areas, particularly the

11 DUCs. Technical resources could include water quality testing services and/or navigating the guidance and funding opportunities the State provides to small producers to fund treatment systems or to consolidate. If at such time any of the mutuals within the DUCs (and the Service Area) initiates consolidation with their neighboring public system, then this study recommends OCWD to assist in the process if requested.

Any applications to OC LAFCO resulting from this study's findings that would change a SOI will warrant another review of present and probable needs for services within DUCs.

SOI STATEMENT OF DETERMINATIONS

OC LAFCO first established the sphere of influence (SOI) of the Orange County Water District in 1977. Since that time, the District's SOI has been reviewed in conjunction with boundary change applications and during the preparation of previous MSRs. The most recent comprehensive review of the District's SOI was completed in 2013. This section includes the Statement of Determinations for the 2024 review of OCWD's SOI. The five statutory determinations are examined in more detail in Chapter 4 of this report.

RECOMMENDATION:

Staff recommends the Commission adopt the Statement of Determinations to reaffirm the SOI as shown on *Exhibit 2*. The SOI would need to be revisited as part of any future District reorganization or consolidation application.

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Exhibit 2
Orange County Water District
Sphere of Influence (SOI)
STATEMENT OF DETERMINATIONS

SOI DETERMINATION 1: The present and planned land uses in the area, including agricultural and open space lands

The Sphere of Influence (SOI) of Orange County Water District (OCWD) is 569 square miles. The SOI contains 52 square miles of ocean, 125 square miles of unincorporated county, and 392 square miles of 27 incorporated cities. The OCWD Service Area is 430 square miles containing 35 square miles of unincorporated county, 52 square miles of ocean, and 343 square miles of 23 incorporated cities. Open space land uses make up the majority of the Service Area and the SOI. According to the latest data from California Department of Conservation's Farmland Mapping and Monitoring Program (dated 2018), there are approximately 3.2 square miles of Prime Farmland, 0.5 square mile of Farmland of Statewide Importance, 10.1 square miles of Grazing Land, and 2.5 square miles of Unique Farmland within the SOI for a total of 16.3 square miles, or 3 percent of the SOI area. The remaining area is mapped as Other Land (149 square miles), Water (4.5 square miles), and Urban Built-Up Land (351.2 square miles).

OCWD does not have land use authority and relies on the General Plans of the county and cities within its boundaries for accurate information on the present and planned land uses of the areas within the Service Area and SOI. In cooperation with the Center for Demographic Research at California State University, Fullerton, OCWD monitors land use changes within its Service Area. Because OCWD does not provide services outside of the Service Area, it is presumed the retail water suppliers that serve the SOI beyond the OCWD Service Area track land use changes and water demands within their respective service areas. OCWD is not requesting changes to its Service Area or SOI.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the SOI of both entities would be reviewed again.

Exhibit 2
Orange County Water District
Sphere of Influence (SOI)
STATEMENT OF DETERMINATIONS

SOI DETERMINATION 2: The present and probable need for public facilities and services in the area

To continue its mission, OCWD has a present need for targeting areas of groundwater contamination and for adding PFAS treatment systems to affected wells. The District's fiscal year 2023-2024 budget and Capital Improvement Program (CIP), which is guided by the District's Replacement and Refurbishment (R&R) Model, lists 15 of the 19 total CIP projects that target these present needs. PFAS treatment will be a dominant component of the District's budget into the future. There is also present need to have facilities that capture more of the Santa Ana River base flows and storm flows once they pass Prado Dam. The District is working to expand river diversion efforts even further, to up to 505,000 AFY so that more of the wet year storm events can replenish the basin instead of flowing to the ocean. There is also a present need to address seawater intrusion occurring in the Sunset Gap in Huntington Beach.

OCWD facilities and services are limited to its Service Area. The District is not requesting changes to its services, Service Area, or sphere of influence as part of this review. If the need becomes apparent in the future to alter the OCWD Service Area and/or SOI boundary, then OCWD will have to undertake appropriate studies to assess the extent of water service demand involving the Basin and submit an application to OC LAFCO for approval of such changes.

During the course of our review, a potential update to the OCWD Service Area was noted. As shown on Figure 2, there are three gaps or holes in the OCWD Service Area that are located within the City of Newport Beach. They total 31 acres and are fully within the SOI of OCWD and completely surrounded by OCWD Service Area. OCWD has indicated they have no reason not to include these areas in their official Service Area and recognizes that further research would need to be conducted prior to submitting an annexation application to OC LAFCO for review and processing.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the SOI of both entities would be reviewed again.

Exhibit 2
Orange County Water District
Sphere of Influence (SOI)
STATEMENT OF DETERMINATIONS

SOI DETERMINATION 3: The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide

The capacity of OCWD's infrastructure to manage the basin sufficiently was demonstrated in WY 2022-2023 when rainfall exceed 158 percent of the long-term average. By the end of June 2022, more water was recharged than anticipated resulting in filling the Basin with an additional 69,000 AF, despite some losses to the ocean. Therefore, the District's capacity is commensurate with the population it currently serves. The District's planning efforts are demonstrated in the annual Comprehensive Financial Report, Annual Budget, and CIP by identifying the resources required to repair, replace, and expand facilities in order to meet its stated mission.

In terms of supply capacity, the District has many water rights and entitlements to water supplies. OCWD recharge basins have a maximum capacity potential of 300,000 AF per year, if all are starting from empty. Furthermore, the District has a water rights permit from the State Water Resources Control Board for diverting up to 362,000 AFY of Santa Ana River base flows and storm flows, with another 143,000 AFY held in abeyance. OCWD submitted a request in 2023 to the State Water Board containing a list of completed projects that would enable the District to divert an additional 49,980 AFY. If approved, this would increase the water right to 411,980 AFY, with 93,020 AFY still in abeyance. The District is also entitled to receive up to 130 million gallons per day from the Groundwater Replenishment System (GWRS), as well as entitlements to recycled water from OC San for the Green Acres Project and recycled water from the Water Replenishment District of Southern California for the Alamitos Barrier Project. OCWD will need to continue to budget for maintenance and expansions of capacity as infrastructure ages, regulations change, and collaboration opportunities arise.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the SOI of both entities would be reviewed again.

Exhibit 2
Orange County Water District
Sphere of Influence (SOI)
STATEMENT OF DETERMINATIONS

SOI DETERMINATION 4: The existence of any social or economic communities of interest in the area, if the Commission determines that they are relevant to the agency

OCWD is charged with managing the water supply of the Orange County Groundwater Basin within its sphere of influence area of 569 square miles. The 19 Groundwater Producers supply the majority of water to the 2.44 million residents within the service area. A total of nine mutual water companies are also within the OCWD Service Area. A total of 11 Disadvantaged Unincorporated Communities (DUCs) were identified within the OCWD Service Area as part of this study. Land uses within the DUCs receive their potable water service from the Cities of Anaheim, Westminster, and Golden State Water Company, and four mutual water companies. Areas of unincorporated Orange County, the 11 DUCs, and the nine mutual water companies within the OCWD Service Area are considered communities of interest. OCWD is a wholesale entity and does not provide water directly to customers, so it is not responsible for the provision of retail water service to these communities of interest. Noting that OCWD has been an excellent partner to its retail agencies in the past, it is recommended that OCWD continue to do so by providing a reasonable level of technical assistance to the water providers of these communities of interest when requested.

Pursuant to OCWD’s application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the communities of interest of both entities would be reviewed again.

Exhibit 2
Orange County Water District
Sphere of Influence (SOI)
STATEMENT OF DETERMINATIONS

SOI DETERMINATION 5: If a city or special district provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence

A total of 11 DUCs are identified within Division 1 of the OCWD Service Area based on the current statewide median household income threshold and the census block boundaries. The retail water suppliers to the DUCs are responsible for the provision of water service and are responsible for the present and future potable water facilities to serve individual customers, not OCWD. The water demands of the water suppliers within the DUCs are accounted for in OCWD's planning projections of water demands. Furthermore, OCWD includes the wells that service the DUCs in its Monitoring Program. In light of pending changes to water quality regulations, it is recommended that OCWD continue to support retailers within its Service Area by providing a reasonable level of technical assistance to the water providers to the DUCs when requested. Additionally, OC LAFCO can engage or facilitate an effort with the State and the private mutual water companies of Orange County on a review of facilities, associated costs, and rates to find opportunities for efficiencies.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the present and probably need for facilities and services of any DUCs for both entities would be reviewed again.

CHAPTER FIVE | CONSOLIDATION FEASIBILITY STUDY

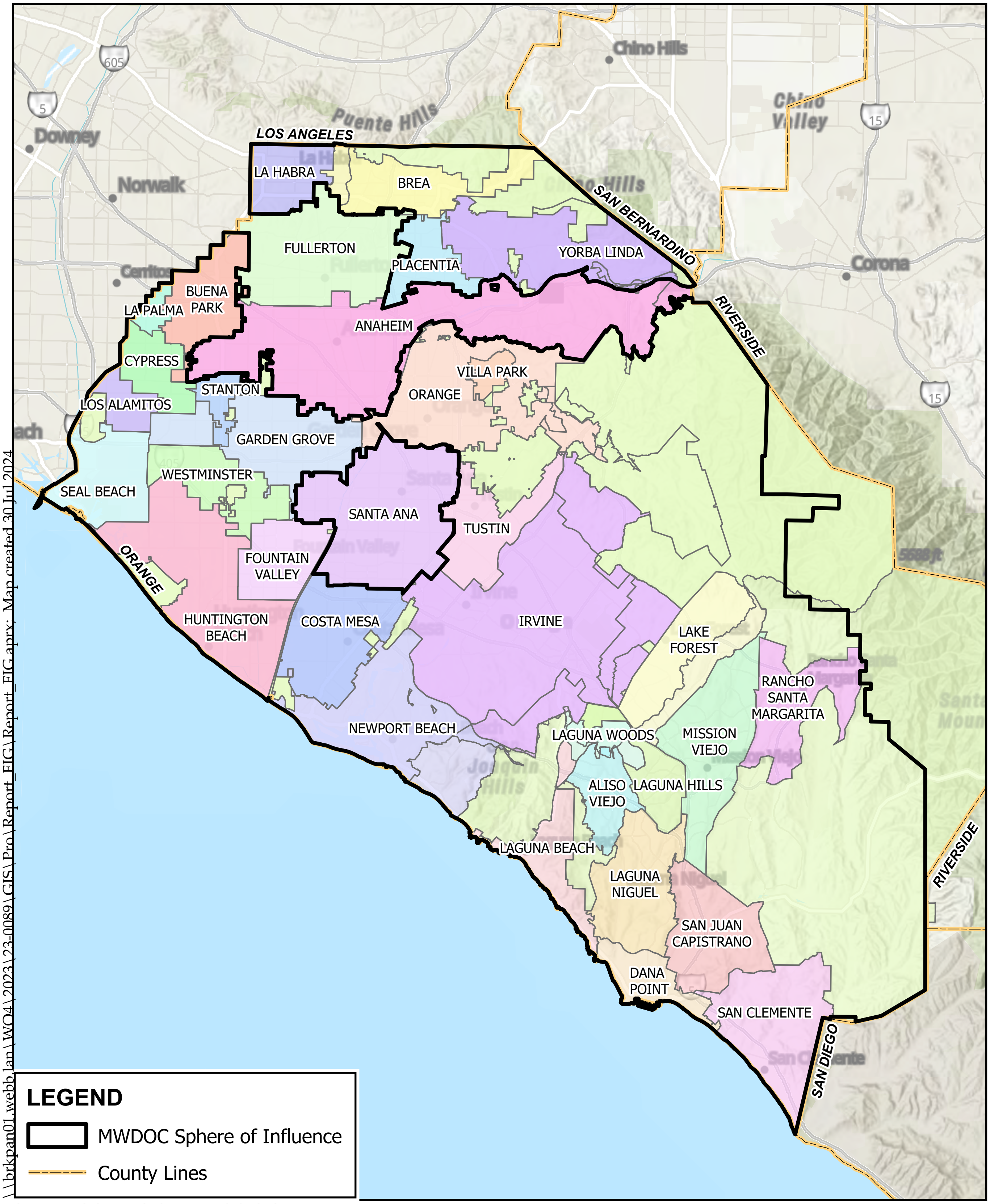
5.1 Background

On October 4, 2022, OCWD submitted an application with OC LAFCO to prepare a Comprehensive MSR including a feasibility analysis of the consolidation of OCWD and MWDOC. The current Sphere of Influence of MWDOC is shown in Figure 8. MWDOC serves an area of approximately 600 square miles over most of Orange County (except the Cities of Anaheim, Fullerton, and Santa Ana). MWDOC provides imported water to 27 member agencies with a seven-member Board of Directors, with each member representing a division elected to a four-year term by voters within their division (September 9, 2020, MWDOC MSR, p. 10). OCWD's Sphere of Influence and MWDOC's Sphere of Influence are shown on Figure 9.

OCWD's application to OC LAFCO was submitted following a June 2022 report prepared by the Orange County Grand Jury entitled, Water in Orange County Needs "One Voice." The Grand Jury report discusses the consolidation of OCWD and MWDOC into a single County wholesale water agency to increase the efficiency and effectiveness in delivering imported water and groundwater, major infrastructure investments, development of forward-thinking policies and practices, and opportunities at the local, State, and federal levels in legislation, policy making and receiving subsidies and grants.

The two most recent reports on this topic from the Orange County Grand Jury that could be located for this study are from 2013 and 2022. The 2013 OC Grand Jury Report did not specifically investigate the merits of consolidating OCWD and MWDOC and recommended that the two agencies "should continue their role in coordinating water planning (p. 32)." The 2022 study had two recommendations; first, "By January 2023, Orange County wholesale water agencies should formally begin analysis and collaboration towards forming a single wholesale water authority or comparable agency to operate and represent wholesale water operations and interests of all imported and ground water supplies;" and second, "Any future "One Voice" consolidated Orange County wholesale water authority should have directors that examine and vote on issues considering the unique needs of all water districts (pp. 16-17)."

In addition, an April 1994 Wholesale Water Agency Reorganization Study prepared jointly by Coastal Municipal Water District, MWDOC, and OCWD, "did not come to unanimous agreement on a single reorganization option [but] several relevant conclusions and recommendations were reached" to improve the overall efficiency and performance of the existing wholesale agency organization structure. (WWAPG, p. 4).



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Source: OCWD GIS, MWDOC GIS

Figure 8 - MWDOC Sphere of Influence

OCWD Municipal Service Review

0 5 10 15 Miles

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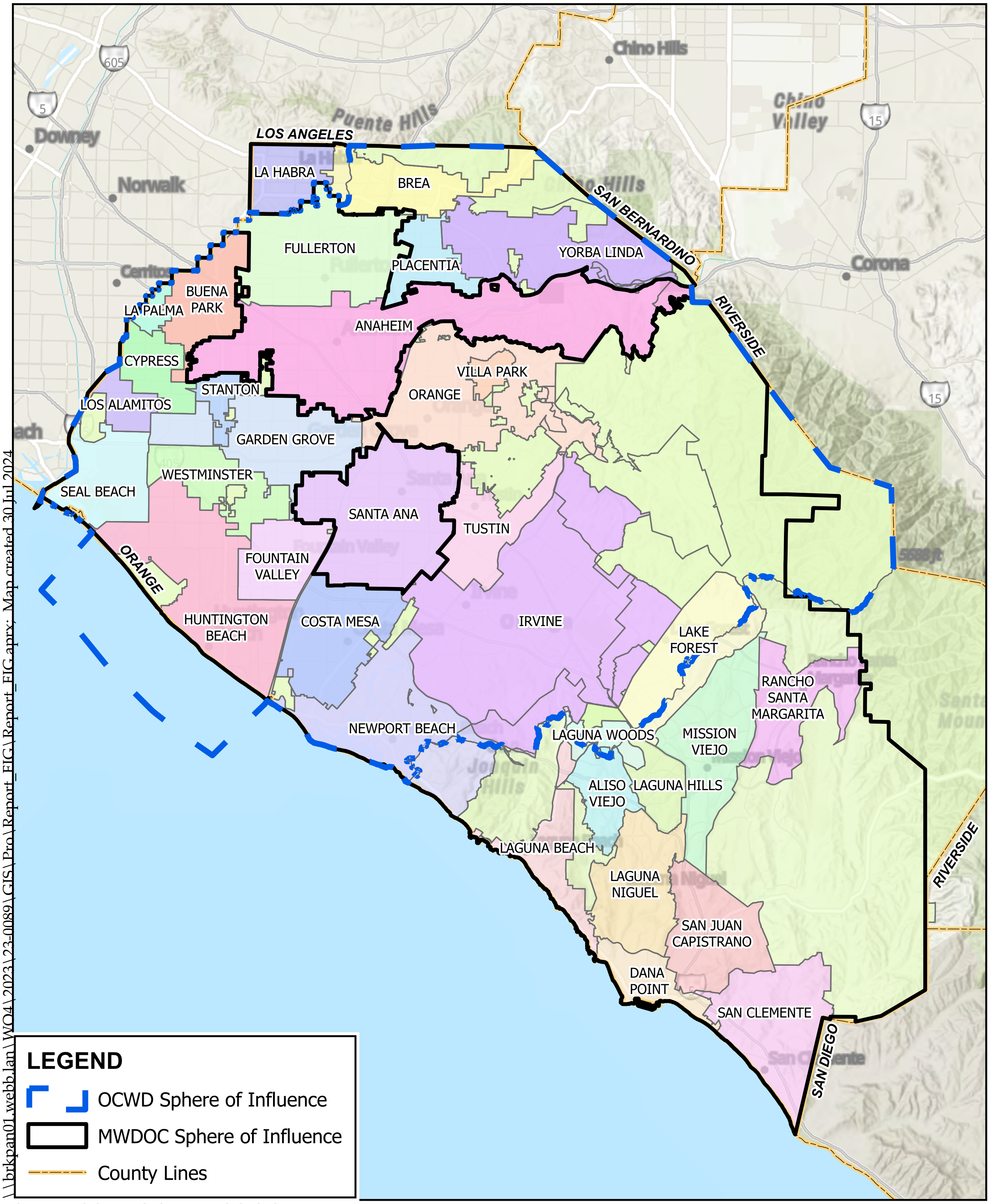

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Source: OCWD GIS, MWDOC GIS

Figure 9 - MWDOC and OCWD Sphere of Influence

OCWD Municipal Service Review

0 5 10 15 Miles

ALBERT A. WEBB ASSOCIATES

Merging of the two entities was also discussed in OC LAFCO reports, including the August 2009 Governance Study for the Municipal Water District of Orange County (OC LAFCO 2009) and September 2006 OCWD MSR/SOI Study (OC LAFCO 2006). The September 2006 OCWD MSR/SOI Study did not have a fiscal analysis but based on stakeholder discussions determined consolidation with MWDOC would not be feasible for the following reasons (OCWD 2006, p. 56):

- Implementing it would take an act of legislation because it involves changing OCWD's principal act.
- Merging these two agencies would not necessarily achieve great efficiencies in overall management of water resources in Orange County.
- Keeping these two agencies separate maintains an important check and balance system, preventing one agency from having control over water supply for the entire County.

The 2009 MWDOC Governance Study concluded, "that only two governance structure options, 'MWDOC Baseline' (or maintain status quo) and 'Reorganization of South County Agencies to Form a County Water Authority' are viable within the constraints imposed by existing law" (p. 78). A fiscal analysis was also not prepared as part of this study and alternatives that required changes to existing law were "parked" based on input from the stakeholders.

An MSR for OCWD was last conducted by OC LAFCO in 2013, which did not include a discussion of consolidation. The most recent MSR for MWDOC was completed in 2020, which also did not include a discussion of consolidation of the agencies.

5.2 Scope of Work

The scope of work for this study includes, but is not limited to, Gov Code Sections 56653, 56700, 56826.5, 56865, 57150(d), 57500, 57502, 57077.2 as well as the following topics:

- Fiscal sustainability of consolidating OCWD and MWDOC operations, infrastructure, programs, contracts and agreements, retirement plans, and other obligations through evaluation of each District's revenues and expenditures; audited financials; rates, fees, and assessments; rate studies and projections; debt obligations; current and projected staffing levels; and transition cost projections involving consolidation; and
- Potential benefits of consolidation.

5.3 Fiscal Sustainability of Consolidation

Fiscal sustainability is the ability of an agency to continue meeting its current obligations and expenditures without defaulting. Maintaining fiscal sustainability requires informed planning of future revenues and liabilities taking into account the many influencing factors that can drive prices up or down such as water rates and availability, equipment costs, and weather forecasts. To inform whether a consolidation of OCWD and MWDOC would be fiscally sustainable, this study begins with establishing a combined baseline of average expenses and revenues for operations, infrastructure, programs, contracts and agreements, retirement plans, and other obligations of both agencies. The baseline budget is then used to discern whether costs or savings could result for the Successor Agency upon consolidation. In this study, fiscal sustainability is measured through the effects of combining of employees, eliminating certain redundant staff positions, reducing overhead costs, reducing the number of board members, and modifying employee benefits.

Budget Comparison and Analysis

The baseline budget information used in this analysis is a three-year average of each agency's board-adopted budgets for Fiscal Years 2021-22, 2022-23, and 2023-24. Using an average baseline budget reduces potential bias that may be introduced by a data outlier in any one year. The three-year average budget of each agency and their combined sum are shown in Table 13. Through consultation with staff from each agency, similar line items were grouped together into similar subgroups (e.g., "Salaries & Wages," "Employee Benefits," etc.) to compare each agency's unique budget side-by-side. Therefore, some budget line items appear without value; for example, Column 3, Lines 3 through 7 have no budget because MWDOC does not have those line items in its budget for the last three fiscal years. Rather, those expenses for MWDOC are grouped into Lines 1 and 2, or they are simply not applicable as is the case with Line 5, Capitalized Salaries. Refer to Appendix A for descriptions of line items that have no assigned value in Table 13.

Table 13: Three-Year Average of Adopted Budget Expenses for OCWD and MWDOC

Column 1 Line	Column 2 Item Description[a]	Column 3 MWDOC Expenses [b]	Column 4 OCWD Expenses [b]	Column 5 Total Combined Expenses [c]
	Salaries & Wages			
1	Salaries & Wages	$4,581,009	$27,109,293	$31,690,302
2	less for Recovery from Grants	($22,888)	$0	($22,888)
3	Overtime	$0	$681,610	$681,610
4	Payroll Taxes	$0	$460,440	$460,440
5	Capitalized Salaries	$0	($349,748)	($349,748)

Column 1 Line	Column 2 Item Description[a]	Column 3 MWDOC Expenses [b]	Column 4 OCWD Expenses [b]	Column 5 Total Combined Expenses [c]
6	Temporary Workers - General Total	$0	$149,167	$149,167
7	Expense - Contra	$0	($73,333)	($73,333)
	Subtotal	**$4,558,121**	**$27,977,429**	**$32,535,550**
	Employee Benefits			
8	Employee Benefits	$674,340	$4,518,881	$5,193,221
9	CALPERS Unfunded Liability Contribution	$207,000	$0	$207,000
10	Health Insurance Coverage for Retirees	$93,500	$5,859	$99,359
11	Retirement[d]	$760,975	$4,550,184	$5,311,159
12	Capitalized Benefits	$0	($99,997)	($99,997)
13	Retiree Health Trust	$0	$1,278,667	$1,278,667
	Subtotal	**$1,735,815**	**$10,253,593**	**$11,989,409**
	Director Fees & Costs			
14	Director Compensation	$279,628	$359,100	$638,728
15	Director Benefits	$132,891	$0	$132,891
16	MWD Representation	$146,690	$0	$146,690
17	Election Expense	$0	$133,000	$133,000
18	Contribution to Election Reserve	$287,916	$0	$287,916
	Subtotal	**$847,125**	**$492,100**	**$1,339,225**
	Insurance Expense			
19	Insurance Expense	$150,992	$695,567	$846,559
20	Insurance Refund	$0	($50,000)	($50,000)
21	Workers' Compensation	$0	$455,704	$455,704
22	Claims Total	$0	$5,333	$5,333
	Subtotal	**$150,992**	**$1,106,604**	**$1,257,596**
	Office Supplies/Expense			
23	Office Expense - General Total	$0	$295,167	$295,167
24	Outside Printing, Subscription & Books	$87,567	$0	$87,567
25	Office Supplies	$32,333	$0	$32,333
26	Postage / Mail Delivery	$10,739	$0	$10,739
	Subtotal	**$130,639**	**$295,167**	**$425,806**
	Supplies			
27	Supplies - Water Loss Control	$4,000	$0	$4,000
28	Business Expense	$2,333	$0	$2,333
29	Chemicals - Polymer Total	$0	$10,836,393	$10,836,393
30	Operational Supplies	$0	$2,544,233	$2,544,233
	Subtotal	**$6,333**	**$13,380,627**	**$13,386,960**
	Professional Fees			
31	Legal Expense - General	$233,917	$966,667	$1,200,583
32	Audit Expense	$33,907	$0	$33,907
33	Outside Consulting Expense	$365,667	$0	$365,667
34	Professional Fees	$1,596,774	$0	$1,596,774
35	Professional Services - General Total	$0	$2,183,980	$2,183,980
36	Legal Advertising Total	$0	$4,667	$4,667
37	Professional Services - Engineer Total	$0	$673,333	$673,333
38	Lab Samples Analysis Total	$0	$208,000	$208,000
39	Security Program Total	$0	$445,867	$445,867

Column 1 Line	Column 2 Item Description[(a)]	Column 3 MWDOC Expenses [(b)]	Column 4 OCWD Expenses [(b)]	Column 5 Total Combined Expenses [(c)]
	Subtotal	**$2,230,264**	**$4,482,513**	**$6,712,777**
	Rent			
40	Rents & Leases	$1,800	$0	$1,800
41	Rent Equipment - Gen Total	$0	$50,733	$50,733
	Subtotal	**$1,800**	**$50,733**	**$52,533**
	Vehicle Expense			
42	Vehicle Expense - Water Loss Control	$8,381	$0	$8,381
43	Automotive & Toll Road Expenses	$14,408	$0	$14,408
44	Gas & Diesel Fuel Total	$0	$115,267	$115,267
45	Fuel - Off Road Total	$0	$117,667	$117,667
	Subtotal	**$22,789**	**$232,933**	**$255,723**
	Repairs & Maint			
46	Maintenance Expense	$164,220	$0	$164,220
47	Building Repair & Maintenance	$20,752	$0	$20,752
48	Maint Equipment	$0	$1,694,933	$1,694,933
49	Building Repair & Maintenance	$0	$3,481,644	$3,481,644
	Subtotal	**$184,972**	**$5,176,577**	**$5,361,549**
	Computer & Software			
50	Software Support & Expense	$130,690	$0	$130,690
51	Computer Maintenance	$6,667	$0	$6,667
52	Computers and Equipment	$36,800	$0	$36,800
53	Hardware/Software Total	$0	$448,167	$448,167
	Subtotal	**$174,157**	**$448,167**	**$622,324**
	Telephone Expense			
54	Telecommunications Expense	$44,323	$243,500	$287,823
	Subtotal	**$44,323**	**$243,500**	**$287,823**
	Memberships			
55	Membership / Sponsorship	$152,085	$483,661	$635,746
56	CDR Participation	$61,715	$0	$61,715
	Subtotal	**$213,799**	**$483,661**	**$697,461**
	Conferences & Travel			
57	Conference Expense - Staff	$50,199	$0	$50,199
58	Conference Expense - Directors	$21,272	$0	$21,272
59	Travel & Accommodations - Staff	$87,450	$0	$87,450
60	Travel & Accommodations - Directors	$32,183	$0	$32,183
61	Travel/Conference/Mileage Total	$0	$138,800	$138,800
	Subtotal	**$191,104**	**$138,800**	**$329,904**
	Utilities Exp			
62	Utilities - Electricity Total	$0	$910,000	$910,000
63	Utilities - Electricity (66Kv Fv Site Sce) Total	$0	$17,598,513	$17,598,513
64	Utilities Electrical Curtailment Power Cr	$0	($933,333)	($933,333)
65	Utilities - Gas Total	$0	$58,667	$58,667
66	Utilities - Water Total	$0	$97,333	$97,333
	Subtotal	**$0**	**$17,731,179**	**$17,731,179**
	Training			
67	Training Expense	$47,000	$136,385	$183,385

Column 1 Line	Column 2 Item Description[(a)]	Column 3 MWDOC Expenses [(b)]	Column 4 OCWD Expenses [(b)]	Column 5 Total Combined Expenses [(c)]
68	Tuition Reimbursement	$5,000	$0	$5,000
69	Education Tuition Reimbursement Total	$0	$32,000	$32,000
70	Subscriptions Total	$0	$38,233	$38,233
	Subtotal	**$52,000**	**$206,618**	**$258,618**
	Misc Exp			
71	Miscellaneous Expense	$105,767	$2,250	$108,017
72	Temporary Help Expense	$5,000	$0	$5,000
73	MWDOC's Contribution to WEROC: Operations	$283,314	$0	$283,314
74	WFB/County Banking Charge Total	$0	$40,000	$40,000
	Subtotal	**$394,081**	**$42,250**	**$436,331**
	Marketing			
75	Event and Marketing	$0	$1,056,617	$1,056,617
76	MWDOC Cost Share	$0	($6,000)	($6,000)
	Subtotal	**$0**	**$1,050,617**	**$1,050,617**
	Inter-agency			
77	Licenses And Permits Total	$0	$93,179	$93,179
78	Inter Agency Total	$0	$767,636	$767,636
79	Taxes & Assessments Total	$0	$73,946	$73,946
	Subtotal	**$0**	**$934,762**	**$934,762**
	Capital Acquisition			
80	Capital Acquisition (excluding building)	$137,410	$0	$137,410
81	Capital Acq Prior Year Carryover Credit	($1,934)	$0	($1,934)
82	Capital Projects (Debt & PAYGO funded)	$0	$160,909,914	$160,909,914
83	New Equipment	$0	$429,700	$429,700
	Subtotal	**$135,476**	**$161,339,614**	**$161,475,090**
	Building Expense			
84	MWDOC's Building Expense	$512,896	$0	$512,896
85	Building Expense Prior Year Carryover Credit	($50,318)	$0	($50,318)
	Subtotal	**$462,579**	**$0**	**$462,579**
	PFAS			
86	PFAS O&M Expenditure	$0	$3,087,667	$3,087,667
	Subtotal	**$0**	**$3,087,667**	**$3,087,667**
	Water Expenses			
87	Water Purchases	$169,380,146	$9,011,156	$178,391,303
88	Local Resource Program Incentives	($4,789,759)	$0	($4,789,759)
89	Readiness-To-Serve Charge	$12,017,805	$0	$12,017,805
90	Capacity Charge	$4,981,793	$0	$4,981,793
91	SCP/SAC Pipeline Surcharge	$330,333	$0	$330,333
	Subtotal	**$181,920,319**	**$9,011,156**	**$190,931,476**
	Debt Expenses			
92	Debt Service	$0	$42,048,787	$42,048,787
	Subtotal	**$0**	**$42,048,787**	**$42,048,787**
	Replacement and Refurbishment (R&R) Expenses			

Column 1 Line	Column 2 Item Description(a)	Column 3 MWDOC Expenses (b)	Column 4 OCWD Expenses (b)	Column 5 Total Combined Expenses (c)
93	R&R Fund Expenditures	$0	$16,381,543	$16,381,543
94	Appropriation to R&R Reserves	$0	$6,898,423	$6,898,423
	Subtotal	**$0**	**$23,279,966**	**$23,279,966**
	Total	**$193,456,689**	**$323,495,021**	**$516,951,711**

(a) Line item descriptions in Column 2 appear exactly as written in each agency's budget. Similar line items were grouped in consultation with each agency as part of this study.

(b) All values shown in this table are a three-year average of the respective agency's last three years of adopted budgets, including negative values (FY 21/22, FY 22/23. and FY 23/24).

(c) Column 5 is the sum of Columns 3 and 4. Refer to Appendix A for explanations of cells with no value.

(d) This line item includes retirement benefits for members of the OCWD Board of Directors. Members of the MWDOC Board of Directors are not eligible to participate in the CalPERS retirement benefit that is provided to MWDOC employees. Instead, they can participate in a 401(a) plan in lieu of FICA at a rate of 7.5% and participate in the District's deferred compensation retirement plan (457 plan) on a voluntary basis at their own cost.

As shown in Table 13, MWDOC's average budgeted expenses are about 60 percent of OCWD's average budgeted expenses. Combined, the average three-year budgets of the two agencies total approximately $517 million.

Opportunities for Cost-Savings Upon Consolidation

Consolidating two agencies that provide similar services into a Successor Agency may create redundancies in certain areas, such as governance, staffing, facilities, and infrastructure. Identifying where those redundancies exist is an important step in determining opportunities for cost savings and efficiencies. One area that was identified during this study was employee positions that would likely become redundant and ultimately reorganized as a result of consolidation of the agencies. Logic dictates that certain executive and administrative positions would become redundant upon consolidation.

As stated in the FY 2023-24 board-adopted budgets, OCWD has 226 full-time equivalent (FTE) positions and MWDOC has 38 FTE positions.[19] The executive level management positions and supportive administrative positions employed by each agency that were deemed potentially redundant upon consolidation are shown in Table 14. For this finding, redundant means each agency had an employee with the same title or similar role as the other agency that could be reorganized into a single position or eliminated as a result of consolidation.

[19] MWDOC Board of Directors' Administration & Finance Committee Meeting on April 12, 2023, and OCWD Board of Directors Meeting on April 19, 2023.

Table 14: Summary of Potentially Redundant Employee Positions

Department	Position	Redundant Positions	Average Annual Salary[1]	Total
Administration	Administrative Assistant	2	$61,144	$122,289
Administration	District Secretary	1	$149,392	$149,392
Administration	Records Coordinator	1	$73,994	$73,994
Engineering	Director of Engineering	1	$214,106	$214,106
Finance	Accounting Manager	1	$158,115	$158,115
Finance	Senior Accountant	1	$102,667	$102,667
General Manager	Executive Assistant	1	$90,113	$90,113
General Manager	General Manager	1	$345,269	$345,269
Human Resources	Director of Human Resources	1	$189,791	$189,791
Information Services	Database Coordinator	1	$50,738	$50,738
Information Services	Financial Analyst/Database Analyst	1	$125,866	$125,866
Information Services	Network Systems Engineer	1	$123,127	$123,127
Public Affairs	Director of Public Affairs	1	$187,040	$187,040
Public Affairs	Public Affairs Coordinator	3	$55,376	$166,127
Public Affairs	Public Affairs Manager/Liaison	1	$153,141	$153,141
Total		**18**	**$2,079,877**	**$2,251,773**

(1) Positions and salaries for each agency were obtained from the State Controller's *Government Compensation in California* website, which is published under the authority of Gov Code section 12463 (https://publicpay.ca.gov/). The salaries of same/similar positions of the two agencies were averaged together for this analysis.

To determine which staff positions were redundant, a detailed comparison was conducted of the full roster of positions including salary information for both MWDOC and OCWD. As shown in Table 14, approximately $2.25 million could be saved through reducing overall staffing of the Successor Agency by 18 FTE positions for a total of 246 FTEs. For example, within the positions classified as administrative such as Administrative Assistant, District Secretary, and Records Coordinator a total of nine positions could be reduced to five positions for efficiency or to eliminate redundancy. This reasoning for the most part holds true for the balance of the positions referenced in Table 14, including for most non-technical and leadership positions that are cross trainable and/or redundant. While these actions would reorganize or eliminate certain positions, it would align the required staffing resources to support the operations of a single Successor Agency while eliminating redundancy in positions and responsibilities to ultimately achieve cost savings and efficiencies. In the event a consolidation occurs, the Successor Agency will need to consider its consolidated staffing needs before determining which positions can be reorganized and/or eliminated.

Economies of scale can occur when fixed costs are spread across more units. With the consolidation of MWDOC and OCWD employees (i.e., 38 + 226 = 264 FTE's), some redundant positions may be eliminated as previously discussed (18 positions), and the Successor Agency would ultimately have more employees (i.e., 264 – 18 = 246 FTE's) then either OCWD or MWDOC individually. Therefore, certain administrative and operational expenses of the Successor Agency could decrease as a result of economies of scale including insurance expenses (workers compensation), office supplies and expenses, professional fees, computer and software expenses, telephone expenses, travel expenses, and training expenses. To calculate the savings from economies of scale, these expenditures were reduced proportionally to the reduction in the number of FTE's (18) using the average of the expenses of MWDOC and OCWD per FTE. Reduced expenditures for the Successor Agency could also be expected in training, sponsorships, subscriptions, and memberships. For example, expenditures for participation with groups like the Association of California Water Agencies, the California Special Districts Association, the Independent Special Districts of Orange County, the Orange County Water Association, the Orange County Business Council, and the Water Advisory Committee of Orange County.

In regard to employee healthcare benefits, a similar economies of scale could occur through elimination of redundant positions. These expenditures were reduced proportionally to the reduction in the number of FTE's (18 positions) using the average of the expenses of MWDOC and OCWD per FTE.

In addition to staffing efficiencies and economies of scale for expenses and healthcare benefits, consolidation can also result in a change in the total number of directors representing the Successor Agency. Currently, MWDOC and OCWD have a combined 17 board members (10 for OCWD and seven for MWDOC). To maintain appropriate governance representation, this study assumes that the Successor Agency Board of Directors would consist of 10 members representing the consolidated boundary of the respective service areas. This study also assumes the Successor Agency would have representation on The Metropolitan Water District of Southern California Board of Directors as well, which has an associated cost. Some cost savings would result from this governance restructure through an overall reduction in per diem payments, director benefits, retirement contributions, travel expenses, conference attendance, and election expenses.[20]

[20] A water district does not necessarily have to provide compensation or benefits to its board members. California Water Code Section 20201 sets the maximum amount of compensation per meeting at $100 unless compensation

Using the combined three-year average budgets of MWDOC and OCWD in Table 13, the redundant employee positions identified in Table 14, economies of scale for certain expenses and healthcare benefits, and the reduction in board members from 17 to 10 members, a consolidated budget has been prepared in Table 15 for a hypothetical Successor Agency that reflects the aforementioned savings and additional expenses assumed as a result of consolidation. Because the OCWD and MWDOC budgets have different degrees of specificity and categorization methodology, and in order to present the agency comparison that is needed in determining the feasibility of consolidation, similar budget line items through discussions with representatives of each agency, have been grouped together (e.g., Salaries & Wages, Employee Benefits, Director's Fees & Costs, etc.). It should be noted the analyses noted in this MSR are high-level attempts to compare and identify associated costs and savings resulting from consolidation of the agencies into a single successor agency.

Table 15: Estimated Results of Consolidation Excluding Retirement Expenses

Column 1 Line	Column 2 Item Description[a]	Column 3 Combined MWDOC & OCWD Average Expenses [b]	Column 4 Estimated Expenses of Successor Agency [c]	Column 5 Estimated Annual (Savings) / Costs [d]
	Salaries & Wages			
1	Salaries & Wages	$31,690,302	$29,438,529	($2,251,773)
2	less for Recovery from Grants	($22,888)	($22,888)	$0
3	Overtime	$681,610	$681,610	$0
4	Payroll Taxes	$460,440	$460,440	$0
5	Capitalized Salaries	($349,748)	($349,748)	$0
6	Temporary Workers - General Total	$149,167	$149,167	$0
7	Expense - Contra	($73,333)	($73,333)	$0
	Subtotal	**$32,535,550**	**$30,283,777**	**($2,251,773)**
	Employee Benefits[e]			
8	Employee Benefits	$5,193,221	$4,642,123	($551,098)
9	*CALPERS Unfunded Liability Contribution[e]*	*$207,000*	*$294,704[f]*	*$87,704*
10	Health Insurance Coverage for Retirees	$99,359	$99,359	$0
11	*Retirement[e]*	*$5,311,159*	*$2,902,609*	*$0*
12	Capitalized Benefits	($99,997)	($99,997)	$0
13	Retiree Health Trust	$1,278,667	$1,278,667	$0

is prohibited by the agency's principal act. Water Code Section 20201 also authorizes board members to increase compensation above $100, but there are notable restrictions on a water supplier's ability to do so. Under Government Code sections 53201 and 53205.1, special district board members can receive group insurance benefits if the board elects to do so. And a special district board may elect to also provide benefits to its retired board members, and the families of board members and retired board members. Benefits for board members can include medical, dental, vision, and life insurance. The provision of compensation and benefits to board members are subject to local laws/ordinances passed by the district.

Column 1 Line	Column 2 Item Description[a]	Column 3 Combined MWDOC & OCWD Average Expenses [b]	Column 4 Estimated Expenses of Successor Agency [c]	Column 5 Estimated Annual (Savings) / Costs [d]
	Subtotal	**$11,989,409**	**$9,029,761**	**($463,394)**
	Director Fees & Costs			
14	Director Compensation	$638,728	$375,722	($263,006)
15	Director Benefits	$132,891	$78,171	($54,720)
16	MWD Representation	$146,690	$146,690	$0
17	Election Expense	$133,000	$66,500	($66,500)
18	Contribution to Election Reserve	$287,916	$143,958	($143,958)
	Subtotal	**$1,339,225**	**$811,042**	**($528,183)**
	Insurance Expense			
19	Insurance Expense	$846,559	$846,559	$0
20	Insurance Refund	($50,000)	($50,000)	$0
21	Workers' Compensation	$455,704	$437,557	($18,148)
22	Claims Total	$5,333	$5,333	$0
	Subtotal	**$1,257,596**	**$1,239,449**	**($18,148)**
	Office Supplies/Expense			
23	Office Expense - General Total	$295,167	$268,897	($26,270)
24	Outside Printing, Subscription & Books	$87,567	$79,773	($7,793)
25	Office Supplies	$32,333	$29,456	($2,878)
26	Postage / Mail Delivery	$10,739	$10,739	$0
	Subtotal	**$425,806**	**$388,865**	**($36,941)**
	Supplies			
27	Supplies - Water Loss Control	$4,000	$4,000	$0
28	Business Expense	$2,333	$2,333	$0
29	Chemicals - Polymer Total	$10,836,393	$10,836,393	$0
30	Operational Supplies	$2,544,233	$2,544,233	$0
	Subtotal	**$13,386,960**	**$13,386,960**	**$0**
	Professional Fees			
31	Legal Expense - General	$1,200,583	$1,080,525	($120,058)
32	Audit Expense	$33,907	$0	($33,907)
33	Outside Consulting Expense	$365,667	$329,100	($36,567)
34	Professional Fees	$1,596,774	$1,437,096	($159,677)
35	Professional Services - General Total	$2,183,980	$2,183,980	$0
36	Legal Advertising Total	$4,667	$4,667	$0
37	Professional Services - Engineer Total	$673,333	$673,333	$0
38	Lab Samples Analysis Total	$208,000	$208,000	$0
39	Security Program Total	$445,867	$445,867	$0
	Subtotal	**$6,712,777**	**$6,362,568**	**($350,209)**
	Rent			
40	Rents & Leases	$1,800	$1,800	$0
41	Rent Equipment - Gen Total	$50,733	$50,733	$0
	Subtotal	**$52,533**	**$52,533**	**$0**
	Vehicle Expense			
42	Vehicle Expense - Water Loss Control	$8,381	$8,381	$0
43	Automotive & Toll Road Expenses	$14,408	$14,408	$0

Column 1 Line	Column 2 Item Description[a]	Column 3 Combined MWDOC & OCWD Average Expenses [b]	Column 4 Estimated Expenses of Successor Agency [c]	Column 5 Estimated Annual (Savings) / Costs [d]
44	Gas & Diesel Fuel Total	$115,267	$115,267	$0
45	Fuel - Off Road Total	$117,667	$117,667	$0
	Subtotal	**$255,723**	**$255,723**	**$0**
	Repairs & Maint			
46	Maintenance Expense	$164,220	$0	($164,220)
47	Building Repair & Maintenance	$20,752	$0	($20,752)
48	Maint Equipment	$1,694,933	$1,859,153	$164,220
49	Building Repair & Maintenance	$3,481,644	$3,502,396	$20,752
	Subtotal	**$5,361,549**	**$5,361,549**	**$0**
	Computer & Software			
50	Software Support & Expense	$130,690	$99,737	($30,953)
51	Computer Maintenance	$6,667	$5,088	($1,579)
52	Computers and Equipment	$36,800	$28,084	($8,716)
53	Hardware/Software Total	$448,167	$430,319	($17,847)
	Subtotal	**$622,324**	**$563,229**	**($59,095)**
	Telephone Expense			
54	Telecommunications Expense	$287,823	$267,628	($20,194)
	Subtotal	**$287,823**	**$267,628**	**($20,194)**
	Memberships			
55	Membership / Sponsorship	$635,746	$580,465	($55,281)
56	CDR Participation	$61,715	$0	($61,715)
	Subtotal	**$697,461**	**$580,465**	**($116,996)**
14	**Conferences & Travel**			
57	Conference Expense - Staff	$50,199	$35,139	($15,060)
58	Conference Expense - Directors	$21,272	$10,636	($10,636)
59	Travel & Accommodations - Staff	$87,450	$61,215	($26,235)
60	Travel & Accommodations - Directors	$32,183	$16,092	($16,092)
61	Travel/Conference/Mileage Total	$138,800	$97,160	($41,640)
	Subtotal	**$329,904**	**$220,242**	**($109,662)**
	Utilities Exp			
62	Utilities - Electricity Total	$910,000	$910,000	$0
63	Utilities - Electricity (66Kv Fv Site Sce) Total	$17,598,513	$17,598,513	$0
64	Utilities Electrical Curtailment Power Cr	($933,333)	($933,333)	$0
65	Utilities - Gas Total	$58,667	$58,667	$0
66	Utilities - Water Total	$97,333	$97,333	$0
	Subtotal	**$17,731,179**	**$17,731,179**	**$0**
	Training			
67	Training Expense	$183,385	$154,788	($28,597)
68	Tuition Reimbursement	$5,000	$0	($5,000)
69	Education Tuition Reimbursement Total	$32,000	$35,816	$3,816
70	Subscriptions Total	$38,233	$38,233	$0
	Subtotal	**$258,618**	**$228,837**	**($29,781)**
	Misc Exp			
71	Miscellaneous Expense	$108,017	$108,017	$0

Column 1 Line	Column 2 Item Description[a]	Column 3 Combined MWDOC & OCWD Average Expenses [b]	Column 4 Estimated Expenses of Successor Agency [c]	Column 5 Estimated Annual (Savings) / Costs [d]
72	Temporary Help Expense	$5,000	$5,000	$0
73	MWDOC's Contribution to WEROC: Operations	$283,314	$283,314	$0
74	WFB/County Banking Charge Total	$40,000	$40,000	$0
	Subtotal	**$436,331**	**$436,331**	**$0**
	Marketing			
75	Event and Marketing	$1,056,617	$1,056,617	$0
76	MWDOC Cost Share	($6,000)	($6,000)	$0
	Subtotal	**$1,050,617**	**$1,050,617**	**$0**
	Inter-agency			
77	Licenses And Permits Total	$93,179	$93,179	$0
78	Inter Agency Total	$767,636	$767,636	$0
79	Taxes & Assessments Total	$73,946	$73,946	$0
	Subtotal	**$934,762**	**$934,762**	**$0**
	Capital Acquisition			
80	Capital Acquisition (excluding building)	$137,410	$137,410	$0
81	Capital Acq Prior Year Carryover Credit	($1,934)	($1,934)	$0
82	Capital Projects (Debt & PAYGO funded)	$160,909,914	$160,909,914	$0
83	New Equipment	$429,700	$429,700	$0
	Subtotal	**$161,475,090**	**$161,475,090**	**$0**
	Building Expense			
84	MWDOC's Building Expense	$512,896	$512,896	$0
85	Building Expense Prior Year Carryover Credit	($50,318)	($50,318)	$0
	Subtotal	**$462,579**	**$462,579**	**$0**
	PFAS			
86	PFAS O&M Expenditure	$3,087,667	$3,087,667	$0
	Subtotal	**$3,087,667**	**$3,087,667**	**$0**
	Water Expenses			
87	Water Purchases	$178,391,303	$178,391,303	$0
88	Local Resource Program Incentives	($4,789,759)	($4,789,759)	$0
89	Readiness-To-Serve Charge	$12,017,805	$12,017,805	$0
90	Capacity Charge	$4,981,793	$4,981,793	$0
91	SCP/SAC Pipeline Surcharge	$330,333	$330,333	$0
	Subtotal	**$190,931,476**	**$190,931,476**	**$0**
	Debt Expenses			
92	Debt Service	$42,048,787	$42,048,787	$0
	Subtotal	**$42,048,787**	**$42,048,787**	**$0**
	Replacement and Refurbishment (R&R) Expenses			
93	R&R Fund Expenditures	$16,381,543	$16,381,543	$0
94	Appropriation to R&R Reserves	$6,898,423	$6,898,423	$0
	Subtotal	**$23,279,966**	**$23,279,966**	**$0**
	Total[e]	**$516,951,710**	**$512,395,314**	**($3,984,377)**

Column 1 Line	Column 2 Item Description[(a)]	Column 3 Combined MWDOC & OCWD Average Expenses [(b)]	Column 4 Estimated Expenses of Successor Agency [(c)]	Column 5 Estimated Annual (Savings) / Costs [(d)]

(a) Line item descriptions appear exactly as written in each agency's adopted budget. Similar line items were grouped together with subheaders in consultation with each agency as part of this study.

(b) Column 3 in this table is the same as Column 5 in Table 13.

(c) Estimated Budget of Successor Agency (Column 4) is the difference between Column 3 (Combined Agency Budgets) and Column 5 (Estimated Annual Savings/Cost).

(d) Estimated Annual Savings/Cost (Column 5) represents savings/cost upon consolidation. Refer to Appendix B for explanations of what each savings/cost consists. No inflationary factors were applied in this table.

(e) No changes to the retirement benefits that are in Lines 9 and 11 are reflected in this table. Their costs are held static in order to highlight savings/costs outside of changes to retirement plans. Changes to retirement benefits are shown in Tables 16 and 18.

(f) MWDOC budgets consistently show $207,000; however, according to CalPERS annual evaluation reports (Classic and PEPRA reports combined) as of June 30, 2022, reflect an unfunded liability total payment of $294,704, including net present value discount of approximately 3.2%.

As shown in Table 15, no net savings is expected for Successor Agency expenses related to repairs and maintenance (Replacement and Refurbishment) because it is assumed that the Successor Agency would provide the same services currently being provided by each agency independently and would be required to repair and maintain the same assets and equipment to provide continuity and uninterrupted services. Furthermore, Table 15 reflects the assumption that existing expenses for public services, programs, and activities will continue to be provided or performed by the Successor Agency in the same manner and to the same customers that are currently being served. Likewise, the facilities currently owned by each agency shall be retained, operated, and maintained by the Successor Agency. Likewise, expenses related to technical supplies, rent, vehicle expenses, repair and maintenance, utilities, miscellaneous items, marketing, inter-agency expenses, capital acquisition, building expenses, and PFAS O&M have been maintained in the Successor Agency budget in Table 15, as it is assumed those expenses would not immediately increase or decrease as the result of a consolidation.

The consolidated budget of a Successor Agency in Table 15 reflects cost savings in the amount of approximately $3.98 million, but it does not reflect any changes to retirement plans as discussed previously, or temporary transitional costs associated with undertaking a consolidation. Examples of temporary transitional costs may include establishing single retirement and Other Post-Employment Benefit (OPEB) plans, reorganization of employee positions, associated legal fees, consultant fees, and other unknown or unanticipated costs.[21] Further detailed review of the scope and function of professional service providers may allow for additional efficiencies, economies of scale, and resulting savings.

Retirement Plans

OCWD offers a defined contribution plan to its employees (i.e., 401(k) plan)[22] and MWDOC offers its employees a defined benefit plan (i.e., California Public Employees' Retirement System "CalPERS").[23] To evaluate the potential costs or savings from a change to the provided retirement plans upon consolidation, three scenarios were reviewed:

- A Successor Agency offering both a defined benefit and defined contribution plan to employees.
- A Successor Agency offering a defined benefit program to employees (in this instance, CalPERS).
- A Successor Agency offering a defined contribution program to employees.

Retirement Plan Scenario 1

The first scenario, where a Successor Agency offers a defined benefit plan such as CalPERS, and a defined contribution plan to employees is likely infeasible because of a prior legal challenge. In the 2004 California Supreme Court Case, *Metropolitan Water District of Southern California v. Superior Court of Los Angeles County*, the court ruled that MWD was mandated to enroll all common law employees in CalPERS, except those excluded under a specific statutory or contractual provision.[24] This ruling essentially requires any CalPERS member agency to enroll all eligible employees in CalPERS, effectively negating the idea of offering a dual retirement plans.

Retirement Plan Scenario 2

The second scenario of a Successor Agency offering a defined benefit program would facilitate the enrollment in CalPERS of all eligible agency employees. Each new plan participant of the Successor Agency (which would be all OCWD employees) would be

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[21] Other Post-Employment Benefits (OPEB) are benefits that an employee receives after their employment, but are not considered part of their pension. This commonly consists of retiree medical insurance.

[22] A defined contribution plan is a retirement plan where an employee and/or employer contribute money into an individual account for the employee. The contributions are usually invested on the employee's behalf, and the account's value changes based on the contributions and the investments' performance.

[23] A defined benefit plan is a retirement plan that provides employees with a fixed monthly benefit when they retire. The benefit is usually based on the employee's salary and length of service and may be calculated using a formula.

[24] "Cargill" (2004) 32 Cal. 4th 491.

required to complete an enrollment form and would be evaluated to determine if they would be subject to the Public Employees' Pension Reform Act (PEPRA) as a new member or whether they would qualify for a Non-PEPRA classic CalPERS membership. However, without an actuarial evaluation, the precise quantification of the annual cost to provide a defined benefit program is not possible.

For the purpose of this study, an estimate is made using rates and amounts from the MWDOC PEPRA actuarial valuation for the reporting period ended June 30, 2022. The employer contribution rate for the 2024-25 fiscal year, net of employee contribution offset, is 7.9% of payroll. This assumes all newly enrolled employees join on a go-forward basis, with no assumptions of retroactive enrollment benefits. Using required contribution amounts from MWDOC actuarial reports for the 2024-25 fiscal year, plus estimated salaries of the newly enrolled employees ($27,109,293 from Line 1 of Table 13), the estimated annual contribution would be approximately $2,902,609. There may be additional transitional costs which are unknown at this time.

Table 16: Employee Benefits for Successor Agency Budget Comparison and Proforma with Defined Benefit Plan (CalPERS)

Column 1 Line	Column 2 Item Description	Column 3 Combined MWDOC & OCWD Expenses	Column 4 Estimated Budget of Successor Agency	Column 5 Estimated Annual (Savings) / Costs
	Employee Benefits			
8	Employee Benefits	$5,193,221	$4,642,123	($551,098)
9	*CALPERS Unfunded Liability Contribution*	*$207,000*	*$294,704*	*$87,704*
10	Health Insurance Coverage for Retirees	$99,359	$99,359	$0
11	*Retirement*	*$5,311,159*	*$2,902,609*	*($2,408,550)*
12	Capitalized Benefits	($99,997)	($99,997)	$0
13	Retiree Health Trust	$1,278,667	$1,278,667	$0
	Total	**$11,989,409**	**$9,117,465**	**($2,871,944)**

Note: Line 11 is the only line that differs from the prior Table 15 and subsequent Table 18.

As shown in Table 16, if the Successor Agency transitions to CalPERS, then the Employee Benefits could result in a net annual savings of approximately $2,871,944. Of which, $2,408,550 would be in addition to the total savings identified in Table 15 ($3.98 million) for an overall estimated net savings of approximately $6,391,927.

Retirement Plan Scenario 3

The third scenario analyzed herein is a Successor Agency offer of enrollment in a defined benefit contribution plan (401(k)), which requires the payment of an unfunded termination liability to CalPERS to end the availability of the defined benefit option and plan with

CalPERS. To evaluate this potential option, the CalPERS Actuarial Evaluation from June 30, 2022 was used, and the cost to terminate membership is estimated to range between $9,882,750 to $23,762,256 for classic (Non-PEPRA) members and between $503,748 and $2,241,665 for PEPRA members (Table 17). These estimates are based on Discount Rates ranging from 1.75% to 4.5% and Inflation Rates ranging from 2.5% to 2.75%. Also included in these estimated termination liabilities is a 5% contingency load.[25]

Table 17: CalPERS Termination Liability Summary

	Low	High
Discount Rate	4.50%	1.75%
Price Inflation	2.75%	2.50%
CLASSIC	$9,882,750	$23,762,256
PEPRA	$503,748	$2,241,665
Total	**$10,386,498**	**$26,003,921**

Source: *CalPERS Actuarial Valuation – June 30, 2022, PEPRA Miscellaneous Plan of the Municipal Water District of Orange County*

When a CalPERS member agency terminates its membership with CalPERS, the agency would need to contact the CalPERS Pension Contract Services department and initiate a Resolution of Intent to Terminate and obtain a more up-to-date estimate of its retirement liabilities. Once obtained, the unfunded termination liability should then be evaluated by the Successor Agency, including the engagement of qualified professionals (internal and external) and general counsel specializing in municipal advising. The Successor Agency may also consider making a cash payment from available unrestricted cash assets or reserves and/or, financing the liability through Pension Obligation Bonds (POBs).[26]

The estimated annual impact of transitioning all employees of the Successor Agency to a defined contribution retirement plan has been projected using the calculation of the current percentage of retirement contribution to current salary and wage expenses for the Agency offering the defined contribution plan (i.e., OCWD). As shown in Table 18, if

[25] Source: CalPERS Actuarial Valuation Miscellaneous Plan and PEPRA Miscellaneous Plan CalPERS ID: 649793438

[26] POBs are taxable bonds that some state and local governments issue to pay off unfunded pension liabilities. POBs carry significant risks, including investment risk and timing risk. It should be noted that options described above should be fully evaluated for impacts such as a reduction in interest earnings related to the cash payment, or the requirement to pay an annual debt service payment related to the issuance of POB's. Mention of these options are for informational purposes and do not represent professional advice or recommendation.

the Successor Agency offers only a defined contribution retirement plan, then the estimated annual savings of consolidation related to retirement benefits is approximately $376,734. However, this estimated annual savings does not take into account potential annual debt service payment required should any type of financing mechanism be leveraged to fund the termination liability. An estimate of that annual payment requirement would need to be provided in consultation with a Municipal Advisor.

Table 18: Employee Benefits for Successor Agency Budget Comparison and Proforma with Defined Contribution Plan (401(k))

Column 1 Line	Column 2 Item Description	Column 3 Combined MWDOC & OCWD Expenses	Column 4 Estimated Budget of Successor Agency	Column 5 Estimated Annual (Savings) / Costs
	Employee Benefits			
8	Employee Benefits	$5,193,221	$4,642,123	($551,098)
9	*CALPERS Unfunded Liability Contribution*	*$207,000*	*$0*	*($207,000)*
10	Health Insurance Coverage for Retirees	$99,359	$99,359	$0
11	*Retirement*	*$4,550,184*	*$4,931,548*	*$381,364*
12	Capitalized Benefits	($99,997)	($99,997)	$0
13	Retiree Health Trust	$1,278,667	$1,278,667	$0
	Total	**$11,228,434**	**$10,851,700**	**($376,734)**

Note: Lines 9 and 11 are the only lines that differ from the prior Tables 15 and 16.

As shown in Table 18, if the Successor Agency transitions to a defined contribution plan, then the Employee Benefits would have a net annual savings of approximately $376,734, which is a reduction in savings of $86,660 compared to that shown in Table 15. With the reduction in savings, the overall net savings would be approximately $3,897,717. However, this does not include the termination payment for CalPERS, which ranges from $10.4 million to $26 million (Table 17).

Other Post-Employment Benefits

MWDOC and OCWD both offer defined benefit Other Post-Employment Benefit (OPEB) plans to their employees. An analysis of the benefits provided, the cost associated with those benefits, and termination payments required to eliminate one plan would need to be performed by the Successor Agency to determine the best route for consolidation of OPEB plans, if required.

Revenues

It is important to show revenues over time to allow for an evaluation of consistency and the ability of a Successor Agency to maintain expenses, whether higher or lower following a consolidation. The three-year average board-adopted revenues of Fiscal Years 2021-22, 2022-23, and 2023-24 from both OCWD and MWDOC are shown in Table 19. These average revenues have been used to determine an estimated revenue proforma for a Successor Agency. No inflationary factors were considered because no future timeline for consolidation is being considered.

Table 19: Projected Average Annual Revenues of Successor Agency – Estimated from Three Year Average Revenues

Column 1 Revenues	Column 2 MWDOC Average Revenue (a)	Column 3 OCWD Average Revenue (a)	Column 4 Combined Revenue	Column 5 Estimated Successor Agency Revenue
Property Taxes	$0	$32,135,333	$32,135,333	$32,135,333
Replenishment Assessment (RA)	$0	$154,932,306	$154,932,306	$154,932,306
Basin Equity Assessment (BEA)	$0	$2,083,333	$2,083,333	$2,083,333
Facility Revenue from Other Agencies (GAP)	$0	$2,567,381	$2,567,381	$2,567,381
Investment/Interest Revenues	$228,460	$2,607,830	$2,836,290	$2,836,290
Rent, Royalties and Others	$0	$3,409,821	$3,409,821	$3,409,821
Grants	$0	$1,833,333	$1,833,333	$1,833,333
Draw from Construction Fund / SRF Loans /Debt	$0	$123,925,520	$123,925,520	$123,925,520
Retail Meter Charge	$8,816,296	$0	$8,816,296	$8,816,296
Ground Water Customer Charge	$362,296	$0	$362,296	$362,296
Miscellaneous Income	$3,000	$0	$3,000	$3,000
Choice Revenue	$1,807,201	$0	$1,807,201	$1,807,201
MWDOC Water Revenues(b)				
Water Sales	$169,380,146	$0	$169,380,146	$169,380,146
Local Resource Program Incentives (Offset)	($4,789,759)	$0	($4,789,759)	($4,789,759)
Readiness-To-Serve Charge	$12,017,805	$0	$12,017,805	$12,017,805
Capacity Charge	$4,981,793	$0	$4,981,793	$4,981,793
Interest Revenue - Tier 2 Contingency	$5,016	$0	$5,016	$5,016
SCP/SAC Pipeline Surcharge	$330,333	$0	$330,333	$330,333
Total Revenue	**$193,142,587**	**$323,494,857**	**$516,637,444**	**$516,637,444**

(a) The average of adopted budgets from Fiscal Years 2021-22, 2022-23, and 2023-24 are shown. No inflationary factors or other uncertain revenues are included. If the value is $0, then that line item is not included in the budget revenues for that agency.

Column 1 Revenues	Column 2 MWDOC Average Revenue [(a)]	Column 3 OCWD Average Revenue [(a)]	Column 4 Combined Revenue	Column 5 Estimated Successor Agency Revenue

(b) Water Sales, Readiness-to-Serve Charge, Capacity Charge, and SCP/SAC Pipeline Surcharge are pass-through charges from MWD to MWDOC Member Agencies. LRP Incentives (Offset) are pass-through credits from MWD to MWDOC Member Agencies.

(c) The total average revenues shown here do not match the total average expenses in Tables 13 and 15 exactly because they are based on a three-year average and because Adopted Budgets may not have expenses that equal revenues in accordance with the agency's reserve policy.

As shown in Table 19, no change in average annual revenue of the Successor Agency is anticipated based on the assumption the Successor Agency will provide the same services as currently provided by OCWD and MWDOC. Services are expected to remain the same for the same population of member agencies and groundwater producers at the same service levels.

Infrastructure

The potential qualitative impact of consolidation on the infrastructure owned by MWDOC and OCWD is estimated to be minimal. This MSR for OCWD and the 2020 MSR for MWDOC identified no deficiencies in infrastructure. Because MWDOC and OCWD provide different services with overlapping service areas, all existing services (and the infrastructure necessary to provide those services) would be retained, operated, and maintained by the Successor Agency consistent with Gov Code Section 56653. The infrastructure expenses of the Successor Agency are noted in Table 13 and infrastructure revenue of the Successor Agency are noted in Table 19. The Successor Agency budget assumes that services provided by the agencies would not change and therefore does not include additional revenue, costs, or cost-savings respective to existing or future infrastructure. However, a temporary increase in costs for the Successor Agency to transition infrastructure contracts/agreements or develop a Capital Improvement Program should be anticipated but have not been estimated here. If an application for consolidation is submitted to OC LAFCO, then costs anticipated by the Successor Agency as a direct result of consolidation would be identified in the Plan of Service in accordance with Gov Code Section 56653.

Programs, Contracts, and Agreements

The potential qualitative impact of consolidation on programs, contracts, and agreements for the Successor Agency is estimated to be minimal. MWDOC and OCWD have developed robust and vital programs related to the services each provides. Consistent with Gov Code Section 56653, the current services would be continued by the Successor Agency at the same levels and to the same member agencies and groundwater producers within the newly consolidated boundary. Furthermore, Gov Code section 57502 speaks to the liability for payment of bonds and obligations of predecessor districts and specifically, that debt existing prior to a consolidation will stay with the territory of the district as it was before consolidation. Upon creation of a Successor Agency, certain contracts and agreements that are held by OCWD and MWDOC would need to be reconsidered. Because MWDOC's SOI encompasses most of OCWD and OCWD's SOI encompasses most of the groundwater basin, savings related to contracts and agreements would likely be limited to those by and between the Agencies and overhead and/or administrative support services providers. An example is the fee OCWD currently pays to MWDOC to purchase imported water. Contracts that may need to be renegotiated upon creation of a consolidated Successor Agency include, but are not limited to, those listed in Appendix C. A temporary cost to transition programs, contracts, and agreements to the Successor Agency should be anticipated. Program expenses of the Successor Agency are noted in Table 13 and general revenue used to fund programs of the Successor Agency are noted in Table 19. A list of existing programs, projects, and agreements for OCWD and MWDOC that may need modifying if transferred to a Successor Agency is located in Appendix C.

Statement of Net Position

The Statement of Net Position is a calculation of the difference between all assets and liabilities of an entity. The combined Statement of Net Position for MWDOC and OCWD are shown in Table 20 and has been prepared using the respective final audited financials for FY ending June 30, 2023.

Table 20: Projected Statement of Net Position based on FY 2022-2023 Final Audited Financials

Column 1 Description	Column 2 MWDOC FY 2022-2023	Column 3 OCWD FY 2022-2023	Column 4 Combined FY 2022-2023	Column 5 Estimated Successor Agency
Assets and Deferred Outflows of Resources				
Current Restricted Assets				
Cash and Cash Equivalents[(a)]	$365,110	$2,094,523	$2,459,633	$2,459,633
Cash with Fiscal Agent	$0	$16,016,885	$16,016,885	$16,016,885
Investments	$1,120,665	$0	$1,120,665	$1,120,665
Custodial Escrow Retention	$0	$1,574,275	$1,574,275	$1,574,275
Accounts Receivable Other	$2,169,947	$0	$2,169,947	$2,169,947
Accrued Interest Receivable	$149	$0	$149	$149
Subtotal	**$3,655,871**	**$19,685,683**	**$23,341,554**	**$23,341,554**
Current Unrestricted Assets				
Cash and Cash Equivalents	$6,740,899	$61,245,251	$67,986,150	$67,986,150
Investments	$2,875,886	$228,281,053	$231,156,939	$231,156,939
Accounts Receivable	$19,058,196	$72,663,787	$91,721,983	$91,721,983
Accrued Interest Receivable	$135,419	$1,404,759	$1,540,178	$1,540,178

Column 1 Description	Column 2 MWDOC FY 2022-2023	Column 3 OCWD FY 2022-2023	Column 4 Combined FY 2022-2023	Column 5 Estimated Successor Agency
Inventory	$0	$4,819,812	$4,819,812	$4,819,812
Deposits and Prepaid Expenses	$169,843	$810,495	$980,338	$980,338
Grants Receivable	$0	$1,405,582	$1,405,582	$1,405,582
Current Portion of Notes Receivable	$0	$305,640	$305,640	$305,640
Leases Receivable, Due in Less Than One Year	$0	$1,378,042	$1,378,042	$1,378,042
Subtotal	**$28,980,243**	**$372,314,421**	**$401,294,664**	**$401,294,664**
Total Current Assets	**$32,636,114**	**$392,000,104**	**$424,636,218**	**$424,636,218**
Noncurrent Assets				
Capital Assets, Not Depreciated	$0	$258,164,396	$258,164,396	$258,164,396
Capital Assets, Depreciated, Net	$3,877,338	$741,665,222	$745,542,560	$745,542,560
Net Other Post Employment Benefits (OPEB) Asset	$0	$0	$0	$0
Notes Receivable, Less Current Portion Above	$202,948	$4,278,964	$4,481,912	$4,481,912
Leases Receivable, Due in Less Than One Year	$0	$13,295,739	$13,295,739	$13,295,739
Total Noncurrent Assets	**$4,080,286**	**$1,017,404,321**	**$1,021,484,607**	**$1,021,484,607**
Total Assets	**$36,716,400**	**$1,409,404,425**	**$1,446,120,825**	**$1,446,120,825**
Deferred Outflows of Resources[a]				
Deferred Amount Related to Pensions	$2,150,394	$0	$2,150,394	$2,150,394
Deferred Amount Related to OPEB	$203,488	$4,818,115	$5,021,603	$5,021,603
Deferred Charges on Refunding	$0	$7,706,668	$7,706,668	$7,706,668
Derivative Instruments	$0	$5,502,867	$5,502,867	$5,502,867
Subtotal	**$2,353,882**	**$18,027,650**	**$20,381,532**	**$20,381,532**
Total Assets and Total Deferred Outflows of Resources	**$39,070,232**	**$1,427,432,075**	**$1,466,502,357**	**$1,466,502,357**
Liabilities, Deferred Inflows of Resources				
Current Liabilities				
Payable from Restricted Current Assets				
Accrued Liabilities	$48,412	$0	$48,412	$48,412
Advances from Participants	$1,054,844	$0	$1,054,844	$1,054,844
Retentions Payable	$0	$1,574,275	$1,574,275	$1,574,275
Subtotal	**$1,103,256**	**$1,574,275**	**$2,677,531**	**$2,677,531**
Payable from Unrestricted Current Assets				
Accounts Payable and Accrued Expenses	$0	$37,632,998	$37,632,998	$37,632,998
Accrued Interest Payable	$0	$6,413,670	$6,413,670	$6,413,670
Grants Payable	$0	$2,577,462	$2,577,462	$2,577,462

Column 1 Description	Column 2 MWDOC FY 2022-2023	Column 3 OCWD FY 2022-2023	Column 4 Combined FY 2022-2023	Column 5 Estimated Successor Agency
Deposits	$0	$82,829	$82,829	$82,829
Retention Payable	$0	$120,022	$120,022	$120,022
Current Portion of Compensated Absences	$0	$557,136	$557,136	$557,136
Current Portion of Long-Term Debt	$0	$35,393,278	$35,393,278	$35,393,278
Short-Term Commercial Paper	$0	$27,400,000	$27,400,000	$27,400,000
Leases Payable, Due in Less Than One Year	$0	$17,280	$17,280	$17,280
Subscriptions-Related Payables, Due in Less Than One Year	$0	$143,425	$143,425	$143,425
Subtotal	**$0**	**$110,338,100**	**$110,338,100**	**$110,338,100**
Unrestricted Liabilities				
Accounts Payable, Metropolitan Water District	$18,900,555	$0	$18,900,555	$18,900,555
Accrued Liabilities	$2,100,680	$0	$2,100,680	$2,100,680
Subtotal	**$21,001,235**	**$0**	**$21,001,235**	**$21,001,235**
Total Current Liabilities	**$22,104,491**	**$111,912,375**	**$134,016,866**	**$134,016,866**
Noncurrent Liabilities				
Long-Term Debt				
Certificates of Participation	$0	$257,021,531	$257,021,531	$257,021,531
Revenue Refunding Bonds	$0	$273,201,785	$273,201,785	$273,201,785
State of California Loans Payable	$0	$196,845,121	$196,845,121	$196,845,121
WIFIA Loan	$0	$115,357,848	$115,357,848	$115,357,848
Less Current Portion Above	$0	($35,393,278)	($35,393,278)	($35,393,278)
Subtotal	**$0**	**$807,033,007**	**$807,033,007**	**$807,033,007**
Other Noncurrent Liabilities				
Net Pension Liability	$3,612,624	$0	$3,612,624	$3,612,624
Net Other Post-Employment Benefits (OPEB) Liability	$0	$920,921	$920,921	$920,921
Accrued Compensated Absences	$0	$6,376,661	$6,376,661	$6,376,661
Liability from Derivative Instruments	$0	$5,502,867	$5,502,867	$5,502,867
Leases Payable, Due in More Than One Year	$0	$4,152	$4,152	$4,152
Subscriptions Payable, Due in More Than One Year	$0	$45,047	$45,047	$45,047
Subtotal	**$3,612,624**	**$12,849,648**	**$16,462,272**	**$16,462,272**
Total Noncurrent Liabilities	**$3,612,624**	**$819,882,655**	**$823,495,279**	**$823,495,279**
Total Liabilities	**$25,717,115**	**$931,795,030**	**$957,512,145**	**$957,512,145**
Deferred Inflows of Resources[a]				
Deferred Amount Related to Pensions	$274,992	$0	$274,992	$274,992

Column 1 Description	Column 2 MWDOC FY 2022-2023	Column 3 OCWD FY 2022-2023	Column 4 Combined FY 2022-2023	Column 5 Estimated Successor Agency
Deferred Amount Related to OPEB	$158,066	$8,335,517	$8,493,583	$8,493,583
Deferred Charges on Refunding	$0	$560,190	$560,190	$560,190
Deferred Inflows Related to Leases	$0	$14,065,870	$14,065,870	$14,065,870
Total Deferred Inflows of Resources	**$433,058**	**$22,961,577**	**$23,394,635**	**$23,394,635**
Total Liabilities and Total Deferred Inflows of Resources	**$26,150,173**	**$954,756,607**	**$980,906,780**	**$980,906,780**
Net Position				
Net Investment in Capital Assets	$3,877,338	$151,262,495	$155,139,833	$155,139,833
Restricted	$2,552,615	$0	$2,552,615	$2,552,615
Restricted for the Construction of Capital Assets	$0	$2,894,945	$2,894,945	$2,894,945
Restricted for Debt Service	$0	$14,435	$14,435	$14,435
Restricted for Custodial Costs	$0	$1,974,922	$1,974,922	$1,974,922
Unrestricted	$6,490,156	$316,528,671	$323,018,827	$323,018,827
Total Net Position	**$12,920,109**	**$472,675,468**	**$485,595,577**	**$485,595,577**

(a) Deferred inflows of resources: Acquisition of a resource which relates to a future period. An example of this would be a receivable for a governmental fund like the general fund that will be received too far in the future to meet the government's revenue recognition policy, typically 180 days or less.
Deferred outflow of resources: Consumption of resources which relates to a future period. An example of this are the charges associated with refunding bonds. Instead of recognizing these all up front, a government must recognize the cost over the life of the new bonds. The part not recognized is the deferred balance.

Aside from changes to Net Pension Liability, Net OPEB liability, deferred inflows and outflows related to pensions and OPEB, and potential use of unrestricted cash assets to pay for costs associated with consolidation, it is anticipated that the Successor Agency's Statement of Net Position would otherwise remain stable related to the combination of assets and liabilities for both OCWD and MWDOC.

Any changes to Net Pension Liability, Net OPEB liability, and deferred inflows and outflows related to pensions and OPEB, would be based upon the Successor Agency's approach to retirement and OPEB offerings. Net pension liability and net OPEB liability represent the cost of all future benefits of the plan less and asset held by the plan. Deferred inflows and outflows of resources represent acquisition or consumption of assets that will be recognized in future reporting periods.

If the Successor Agency offers a defined contribution plan to all employees, a termination payment would be made for the defined benefit plan, and all pension-related balances would be eliminated from the statement of net position. If a defined benefit plan is offered, changes in pension-related balances would not occur until new employees were enrolled in the plan, and service time was earned. The impact would be determined through the aforementioned actuarial valuation performed annually.

If the Successor Agency elects to move all employees into a single OPEB plan, the net OPEB liability, and deferred inflows and outflows of resources related to OPEB would be eliminated through a termination payment. The remaining plan's balances would remain unchanged until new employees are enrolled in the remaining plan and service credit is earned.

If available unrestricted funds are used to pay the pension termination and OPEB termination payments, then the resulting Net Position would decrease by the amount of that payment. Should a debt financing mechanism be utilized for the termination payments, then the total of that debt financing would be added to the Statement as a Liability, also decreasing ending Net Position.

Aside from potential fluctuations resulting from the Successor Agency offering one type of pension plan and potential use of Reserves to facilitate the action of a consolidation, the projected Reserves are estimated to remain stable as it is assumed that the Successor Agency will provide the same services at the same level and to the same customers currently being served. It is estimated that reserve accounts would be maintained in separate accounts to ensure all services and stakeholders would remain stable, however, a further evaluation of the breakdown between what would remain as Restricted and Unrestricted Assets would need to be completed once all assets have been evaluated. This analysis would need to be included as part of the Plan of Service for potential consolidation.

As shown in Table 20, the combined Statement of Net Position of the Successor Agency is estimated to result in a positive annual Total Net Position of approximately $486 million. Because a majority of the Total Net Position consists of unrestricted funds ($323,018,827) largely consisting of unrestricted cash and investments, this would indicate that the Successor Entity would have a healthy financial position. However, individual line items could change based upon the Successor Agency resolution related to the transition of OPEB, pension, and retirement benefits, as discussed in Retirement Plan section, and any potential use of Unrestricted Assets or Reserves to fund any transitional costs related to consolidation to the Successor Agency.

<u>Impacts to Water Supply Reliability</u>

The water supply managed by OCWD is based on groundwater in the OC Groundwater Basin, which provides most of the drinking water to north and central Orange County. The reliability of the Basin has proven to be sustainable, particularly as a result of a longstanding and unique collective basin management approach that avoided having a lengthy and costly court adjudication of individual water rights. MWDOC is a wholesale imported water provider and represents most of Orange County as the third largest member agency on the MWD Board of Directors. The water supply that MWDOC sells is imported water from MWD that originates from a combination of the Sacramento/San Joaquin Delta and the Colorado River. OCWD purchases imported water from MWDOC and uses it to replenish the Basin. OCWD has no direct representation on MWD's Board of Directors. During droughts, imported water supplies are well-documented to be less reliable than groundwater supplies; nonetheless, MWD has assured its member agencies of complete reliability during multi-year droughts according to its 2020 Urban Water Management Plan, and imported water remains now and in the future an essential piece to meeting the water demands of Orange County. In order to continue water reliability throughout Orange County, the Successor Agency would need to continue these water supply programs which have been proven to be reliable. As discussed in Section 5.4, Opportunities of Consolidation, the reliability of such water supplies may benefit in the future from the opportunities of consolidation discussed below. Future proposed changes to basin management and fiscal, operational, environmental, and other impacts would need to be evaluated through other studies.

5.4 Other Opportunities of Consolidation

In addition to the fiscal sustainability of consolidation identified in this MSR, there are other opportunities that consolidation of MWDOC and OCWD may yield albeit currently qualitative and subjective. Because these topics are mentioned in the June 2022 OC Grand Jury report and the OC Grand Jury has discussed opportunities to consolidate the agencies in at least four published reports over the past 40 years, the following is a discussion of those opportunities relative to the consolidation of MWDOC and OCWD.

1. Unified representation at MWD Board of Directors

   Orange County's representation on MWD Board of Directors includes three North Orange County cities that are original member agencies of MWD (Anaheim, Fullerton, and Santa Ana) and four representatives from MWDOC (two are selected from MWDOC's Board and two others are appointed by MWDOC). The number of MWD Directors is based on one representative for each member agency for each 5 percent increment of MWD's assessed valuation, or any fraction above, with each member agency receiving at least one representative. Currently, there are 38 MWD Directors for the 26 MWD member agencies.[27]

[27] In 1998, proposed Senate Bill 1885 would have reduced the MWD Board of Directors from 51 members to one member per member agency, which was 27 at the time (before Coastal Municipal Water District and MWDOC

There have been opposing positions between MWDOC and OCWD on MWD issues. A unified stance from future MWD board members from a Successor Agency (not including Anaheim, Fullerton, and Santa Ana) on groundwater and imported water issues would help to maximize the potential opportunities available from MWD. Of additional and important note is that the Successor Agency would need to meet the requirement of MWD Act in order to become a member agency of MWD to facilitate the provision of imported water to Orange County, excepting within the boundaries of Anaheim, Fullerton, and Santa Ana. More discussion on some of the legalities involving MWD representation is provided in the legal discussion section of this MSR.

2. Unified representation to federal and state agencies for funding opportunities

State and federal agencies, such as the California State Water Resources Control Board and U.S. Bureau of Reclamation, have grants and/or low-interest loans that can help fund water infrastructure. Competition for funding opportunities commonly occurs between water suppliers; however, competition may be avoided between two agencies in the same geographic area if funding opportunities are collaboratively prioritized and targeted after careful deliberations on the direct needs and best use of resources.

Although the benefit of avoided competition is speculative, the securing of grant funding by the Eastern Municipal Water District (EMWD) serving western Riverside County and northern San Diego County is an example of successful efforts of a district managing groundwater production and wholesale water services. EMWD was formed under the Municipal Water District Act of 1911 (same principal act as MWDOC) and serves an area of similar size to MWDOC. The District has been very successful in securing funding for water supply projects, and , according to the April 5, 2024 News Release, “EMWD has been among the most active agencies in the nation at securing federal, state, and local grant funding opportunities. In the past 20 years, EMWD has secured more than $700 million in external funding for a wide range of water, wastewater, and recycled water infrastructure programs to help bolster local water supplies while offsetting rates for EMWD customers.”[28]

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merged in 1999), while leaving the voting entitlements unchanged. The proposed legislation prompted a Conference Committee process to negotiate between MWD, its member agencies, and the Legislature. The result was an amendment to the prior version of SB 1885 so that each member public agency is authorized to appoint additional representatives not exceeding one additional representative for each 5 percent of MWD's assessed valuation, with each member agency receiving at least one representative. The report acted on by the Legislature shrank the MWD Board from 51 members to 38 members effective January 1, 2001. The effect of this legislation is to shift voting power based on assessed valuation among the MWD member agencies while keeping the number of MWD Directors at 38 per the Conference Committee Report/legislation (SB 1885 (Ayala), RN: 9819537, 8/24/98).

[28] Source: https://www.emwd.org/

Water suppliers like OCWD and MWDOC also approach state and federal agencies to provide input on regulations and implementation of regulatory programs that affect them directly and/or their member agencies/groundwater producers. Conflicting stances on regulations from water suppliers in the same geographic area would not likely result in the most beneficial outcome for the agencies and the customers they represent. This has presented a point of disagreement between the agencies in the past. However, consolidation is not required in order for the agencies to engage in a collaborative effort to further the best interests of meeting water demands in Orange County.

3. Unified representation to federal, state, and local legislators

Water suppliers like OCWD and MWDOC hire and send lobbyists to local, state, and federal legislators to advocate for funding and support that benefit their respective priorities. Every two years after the November election cycle, water suppliers jockey for position with newly elected representatives. OCWD and MWDOC currently have separate lobbyists, priorities, and requests. This is another area that has been represented by OCWD and MWDOC as a point of disagreement in the past. For example, in 2018 the two agencies had different positions on amendments being proposed to AB 1668 (Friedman, 2018) and SB 606 (Herzberg, 2018) that relate to how much credit could be applied toward Water Use Objectives for certain water suppliers. Bringing together this effort would have a cost savings for a Successor Agency and would present a unified front of Orange County to legislators but the net effect on the Successor Agency budget is speculative.

Regardless of whether consolidation of MWDOC and OCWD occurs, the water ratepayers in Orange County would benefit from a collaborative, deliberative, and action-oriented dialogue of affected agencies and appropriate stakeholders that acknowledges the effective operations of each agency and likewise the opportunities to eliminate redundancies and bridge common efforts to bring forward goals that support sustainable, efficient, and adequate water service delivery to Orange County residents.

5.5 Statutory and Relevant Case Authority Evaluation Involving Potential Consolidation

On April 2023, OC LAFCO entered into an agreement with John J. Schatz to provide special legal services to the Commission in connection with the preparation of an MSR involving the potential consolidation of OCWD and MWDOC. Services to be provided by Mr. Schatz involve an assessment of any required legislative changes and legal impediments involving consolidation of the two special districts and potential impacts involving governance and current and future representation of Orange County at the

Metropolitan Water District of Southern California (MWD). This section provides the assessment in concert with the scope of work of the aforementioned agreement.

Background

The following assessment prepared by Mr. Schatz is intended to evaluate statutory and relevant case authority, and review and provide interpretative opinions that inform the feasibility of consolidating OCWD and MWDOC involving OC LAFCO, the Legislature, or both.

The most recent Orange County Grand Jury Report regarding consolidation, "Water in Orange County Needs One Voice," references research of water-related statutes and ordinances, but does not include an analysis of the statutory framework and related issues necessary for OC LAFCO and/or legislative action.[29] Irvine Ranch Water District's August 8, 2022 responsive letter to the Report states "*incompatibilities between MWDOC's and OCWD's enabling acts make combining the agencies a statutorily complex undertaking*".[30] Similarly, MWDOC's August 15, 2022 responsive letter to the Report references statutory challenges, and multiple significant challenges that include "*the statutory inability for OCWD to be a Metropolitan Water District member agency*".[31]

OCWD legal counsel provided opinion memos in 2011 and 2013 respectively concerning a legislative consolidation of MWDOC into OCWD, and different ways consolidation can be accomplished[32]. More recently with respect to the MSR currently underway, MWDOC

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[29] Page 5, Water in Orange County Needs "One Voice" (2021/22)

[30] Page 1, IRWD Response to Grand Jury Report "Water in Orange County Needs "One Voice"

[31] Pages 1 & 6, MWDOC Responses to the Orange County Grand Jury Report's Findings and Recommendations

[32] Rutan June 23, 2011 Memo re: MWD Act and LAFCO Issues Relating to Proposed Legislative Consolidation of MWDOC into OCWD [*Revised*]; and, Rutan September 11, 2013 Memo re: Approaches to Proposed Consolidation of OCWD and MWDOC into Single Combined Wholesale and Groundwater Management District.

OCWD legal counsel's June 23, 2011 memo opines that legislation can combine OCWD and MWDOC into a single entity under the OCWD Act and as the MWD member agency for all of Orange County other than the cities of Anaheim, Fullerton and Santa Ana. The legislation could exclude or include LAFCO for oversight or approval.

Either or both OCWD and MWDOC could seek legislation, to include either as the successor entity or a new entity, and completely bypass LAFCO or include LAFCO for some purpose. If so, the legislation would likely be based on the MSR/SOI Review and would probably require further implementing actions. Whether for purposes of such legislation or in connection with consolidation conducted by LAFCO, their respective enabling powers require review and identification of measures, including legislation, so LAFCO can designate the principal act under which the successor district will operate and determine that the successor district can provide all of the services of the two consolidating agencies <u>at the time of consolidation</u>. [underlining added. Government Code Section 56700(b); Government Code Section 56826(a)(1)].

General Counsel has identified several issues under the OCWD Act in its present form relating to the Metropolitan Water District Act and OCWD's eligibility to become an MWD member agency, the respective purposes of OCWD and MWDOC, the three cities within OCWD and related governance and authority questions.[33] These OCWD and MWDOC documents and conversations with their counsel and MWD counsel are further addressed in this assessment.

LAFCO Process – Legislative Authority and Determinations

LAFCOs are responsible for coordinating logical and timely changes in local government boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structure and preparing a sphere of influence for each city and special district within each county.

Established by the Legislature in 1997, the Commission on Local Governance for the 21st Century recommended changes to the law governing LAFCOs in its comprehensive report "Growth Within Bounds." Those recommendations became the foundation for the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, an act that mandated greater independence for LAFCOs and further clarified their purpose and mission.[34]

A Commission's efforts are directed toward seeing that services are provided efficiently and economically while agricultural and open-space lands are protected. To better inform itself and the community as it seeks to exercise its charge, each LAFCO must conduct service reviews to evaluate the provision of municipal services within each county. Consequently, the Legislature has recognized the pivotal role of LAFCO in connection with local review, control and determination. As addressed below, depending on LAFCO's consideration and determination of a consolidation application and the successor entity, enabling legislation may be required prior to any LAFCO determination.[35]. This is distinguished from the Legislature bypassing LAFCO to implement consolidation, including relegating LAFCO to a ministerial role.

Because OCWD was not established pursuant to statutes like the 1911 Act, its powers and purposes are necessarily detailed compared to more broadly written statutes governing 1911 Act districts that possess quasi-municipal powers. Consequently, a comparison of expressly provided powers to a special act district like OCWD with a specific purpose does not necessarily mean a 1911 Act district does not have the same powers just because they are not specifically enumerated by statute.

[33] BB&K November 13, 2023 correspondence

[34] See CALAFCO website; About LAFCOs

[35] Government Code Section 56826(a)(1)

Consolidation and the Successor Agency

MWDOC as Successor Entity

Metropolitan Water District Member Public Agency

MWDOC is a "Public Agency" and "Member Public Agency," both as defined in the Metropolitan Water District Act (MWD Act).[36] Consolidation with OCWD for purposes of MWD does not require legislation because MWDOC is currently an MWD Member Public Agency.

Groundwater

MWDOC was organized pursuant to the Municipal Water District Act of 1911 (the 1911 Act). Section 71610(a) of the 1911 Act, Part 5 (Powers and Purposes) provides:

> **Except as provided in subdivision (b),[37] a district may acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water, including sewage and storm waters, for the beneficial use or uses of the district, its inhabitants, or the owners of rights to water in the district.**

Section 71590 of the 1911 Act provides:

> **A district may exercise the powers which are expressly granted by this division or are necessarily implied.**

There are numerous examples of 1911 Act districts involved with groundwater basin projects and programs.[38] Because 1911 Act districts can exercise groundwater basin authority, in one instance it was necessary to enact legislation to resolve a dispute between a 1911 Act district and water replenishment district over control of groundwater storage.[39] The broadly written power of Section 71610(a) coupled with necessarily implied powers per Section 71590, as demonstrated by examples of 1911 Act districts exercising control over groundwater basins for beneficial use, confirm that legislation is

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[36] Sections 5 and 12, respectively, Metropolitan Water District Act

[37] Subdivision (b), not applicable here, applies to a district located in a county with a population greater than 8 million persons.

[38] Of MWD's 26 member agencies, 11 are 1911 Act districts, all of which are directly or indirectly involved in groundwater projects and programs, including activities related to groundwater management (e.g., Eastern Municipal Water District). Many 1911 Act districts are actively involved in adjudicated groundwater basins overseen for basin management purposes by watermasters. These examples indicate the 1911 Act provides broad powers regarding waters, which include groundwater basin management, storage, conjunctive use/exchange programs, water reuse/reclamation and conservation.

[39] SB 1386 (Lowenthal); 2011-2012 Regular Session

not necessary in order for MWDOC to exercise its existing authority regarding the groundwater basin.[40]

Courts have categorized 1911 Act districts as "quasi-municipal districts", described by one court as formed for the purpose of supplying general municipal needs, although these needs may be specific in their delineated character; the creation of this type of district is not for the purpose of making a specific and narrowly limited improvement, but is comparable to the organization of a city (Yribarne v. County of San Bernardino, 218 Cal. App. 2d 369, 32 Cal. Rptr. 847, 1963 Cal. App. LEXIS 1788). The California Supreme Court said in the case of Morrison v. Smith Bros, Inc. "… from 1911 to date, there has been developed a new type of public corporation, resembling in many respects municipal corporations proper, and radically different in nature from irrigation [***15] and reclamation districts. The case of Henshaw v. Foster, supra, clearly recognized the distinction, holding that such quasi-municipal corporations were municipal corporations within the meaning of article XI, section 19, of the state Constitution." [Morrison v. Smith Bros., Inc., 211 Cal. 36, 293 P. 53, 1930 Cal. LEXIS 299]. These cases underscore the broad authority of 1911 Act districts, including for groundwater management purposes.

The 1975 "Joint Exercise of Powers Agreement Creating Santa Ana Watershed Project Authority" (as amended) includes OCWD and four 1911 Act districts. The Agreement provides: "each of the parties has the authority and power to protect and preserve the quality of the surface and subsurface water supplies within their respective boundaries;" that the Authority was formed pursuant to the provisions of the Government Code "relating to the joint exercise of powers common to public agencies" (Government Code Section 6502); and, that the powers "shall be exercised, to the extent not herein specifically provided for, in the manner and according to the methods provided under the "Municipal Water District Law of 1911". If OCWD is exercising common powers which includes surface and subsurface supplies according to the 1911 Act districts for purposes of SAWPA, then those common powers would also be applicable to MWDOC in connection with MWDOC's authority and exercise of powers concerning the groundwater basin.

Santa Ana River Judgment

OCWD is a party to the 1969 Orange County Water District vs. City of Chino, et al. judgment. If MWDOC is the successor entity of an OCWD/MWDOC consolidation, MWDOC will have to intervene in the Judgment. OCWD is a member agency of the Santa Ana Watershed Project Authority (SAWPA), which was established following the

[40] Government Code Sections 56050.5, 56824.10, 56824.12, however, requires LAFCO to act regarding the exercise of latent powers.

judgment and is engaged in ongoing projects and programs associated with the Judgment. SAWPA-related agreements will require amendment in connection with MWDOC's successor entity status.

MWDOC Boundary

OCWD's boundary extends past the ocean shoreline commensurate with the boundary of the groundwater basin. MWDOC's boundary does not extend beyond the shoreline. MWDOC's boundary will have to be adjusted via an annexation consistent with the OCWD/groundwater basin boundary.[41]

Board Composition and Three Cities

The Cities of Anaheim, Fullerton and Santa Ana (Three Cities) are each a Member Public Agency of MWD and are not within MWDOC.[42] Any Plan of Service submitted with a consolidation application could include the addition of three Directors to the MWDOC Board whose authority would be commensurate with the authority currently exercised as members of the OCWD Board, including for purposes of retaining their sovereignty. Specifically, that authority would be limited to groundwater basin matters within the former OCWD boundary and include provisions to avoid incompatibility of public office in connection with the Three Cities as independent MWD agencies sitting on the Board of another independent MWD agency. The Plan of Services for any consolidation proposal must address the governance issues in connection with the Three Cities.

OCWD as Successor Entity

Metropolitan Water District Member Public Agency

Per the existing provisions of the MWD Act, as a special act district, OCWD is not a Public Agency and therefore cannot be a Member Public Agency.[43] Consequently, the MWD Act would have to be amended by legislation in order for OCWD to be considered by MWD to become a member agency. Prior efforts to amend the MWD Act, including member agency proxies to attend, vote and participate at MWD meetings if the member

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[41] Government Code Section 56017, 56021(d)

[42] See 1986 detachment documents

[43] Section 5: "Public agency" means any city, municipal water district, municipal utility district, public utility district, county water district, and county water authority'; Section 12: "Member public agency" means any public agency, the area of which, in whole or in part, is included within a metropolitan water district as a separate unit.

public agency cannot attend the meeting have been opposed.[44] Recently, discussion among MWD member agencies to introduce similar legislation indicated there is opposition to opening the MWD Act because other unrelated amendments are likely to be proposed.

Alternatively, it has been suggested that the OCWD Act could be amended by legislation to provide OCWD with the same powers as a 1911 Act district. The legislation might include a provision that the OCWD legislation is interpretative of the existing MWD Act with respect to the types of public agencies that are member public agencies of MWD.[45] Although Cortese-Knox- Hertzberg permits LAFCO to consolidate two districts with different principal or enabling acts, LAFCO may do so only if the successor district can provide all of the services of the two consolidating agencies at the time of consolidation. Consequently, OCWD must be eligible to become an MWD member agency prior to LAFCO processing any consolidation with OCWD as the successor entity.[46]

OCWD Boundary

The OCWD Act is clear that the primary purpose of OCWD is the management of the groundwater basin. Legislation amending the OCWD Act would be required to change OCWD's boundary consistent with MWDOC's and maintaining the three cities (Anaheim, Fullerton, and Santa Ana) within the boundary so OCWD can import and sell water outside of the basin as MWDOC currently does. This would be irrespective of OCWD's groundwater basin management and would not necessarily involve the conjunctive use of imported and basin groundwater, operationally or otherwise, except as may be authorized or enabled by legislation.

Board Composition and Authority

Legislation would be required to elect Directors representing the area not currently within OCWD's boundary. The number of Directors, divisions and authority would have to be aligned with the territory represented by the Directors and if directly related to the groundwater basin or imported water. As this may be a mixed question, any enabling legislation should carefully circumscribe the authority and limitations on the authority of Directors. The Plan of Services for any consolidation application submitted to OC LAFCO must address the governance issues.[47]

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[44] AB 885 (2007-08 Legislative Session); Governor vetoed; see 7/11/07 Senate Local Govt. Comm. Bill Analysis

[45] The MWD Board of Directors still has discretionary authority to approve or disapprove the special act district/OCWD as a "member public agency".

[46] Government Code Section 56826.5(a)(1)

[47] Government Code Section 56653

Board Composition and Three Cities

The authority and jurisdiction of the Three Cities Directors would necessarily be limited to the groundwater basin area consistent with their current status as OCWD Directors. This would also have to be addressed in any enabling legislation with respect to the Board composition and authority as referenced above. The Plan of Services for any consolidation application must address the governance issues in connection with the Three Cities.

Need for Legislation

As noted above, Government Code Section 56826(a)(1) requires that the successor entity must have the authority to provide all of the services of the two consolidating agencies at the time of consolidation. As addressed above, legislation is required in order for OCWD to be considered a member agency and also for purposes of its boundaries, Board composition and governance.

5.6 Plan For Service

Submittal of an application to OC LAFCO, accompanied by a plan for providing services, to consolidate OCWD and MWDOC into a single successor agency is required. In accordance with Government Code Section 56653, the "Plan for Service" shall address all of the following information and ***any additional information required by the Commission or the Executive Officer***:

(1) An enumeration and description of services currently provided or to be extended to the affected territory.
(2) The level and range of those services.
(3) An indication of when those services can feasibly be extended to the affected territory, if new services are proposed.
(4) An indication of any improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
(5) Information with respect to how those services will be financed.

In addition to the requirements noted above, the "Plan for Service" shall also include all of the following information:

a) The total estimated cost to provide the **new** or **different** function or class of services within the boundary of the Successor Agency. (New or Different Services: G.C. 56824.12)

b) The estimated cost of the **new** or **different** function or class of services to customers within the boundary of the Successor Agency. (New or Different Services: G.C. 56824.12)

c) Identification of existing providers, if any, of the **new** or **different** function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers. (New or Different Services: G.C. 56824.12)

d) A plan for financing the establishment of the **new** or **different** function or class of services within the boundary of the Successor Agency. (New or Different Services: G.C. 56824.12)

e) Alternatives for the establishment of the **new** or **different** function or class of services within the boundary of the Successor Agency. (New or Different Services: G.C. 56824.12)

5.7 Findings

In accordance with Gov Code Section 56826.5(b)(2), LAFCO must make the determination that public service costs of a proposal for consolidation are likely to be less than or substantially similar to costs under alternative means of providing services.

The following findings are not intended as conclusions or recommendations but rather have been developed in line with materials provided and interviews conducted with MWDOC and OCWD and assumptions as noted within this MSR or its attachments.

1. The combined average annual expenses based on the last three years (Fiscal Years 2021-22, 2022-23, and 2023-24) of adopted budgets for MWDOC and OCWD total approximately $517 million (Table 13).

2. In part to a consolidation of OCWD and MWDOC, 18 positions were found to be potentially redundant, resulting in cost savings in average annual salaries of approximately $2.25 million (Table 14).

3. The elimination of redundant staff positions, reduction in board members from 17 to 10, savings from economies of scale for overhead expenses and healthcare benefits as a result of consolidation would have a net savings for the Successor Agency of approximately $3.98 million annually (Table 15).

4. Consolidation with all employees enrolled in a defined benefit plan (CalPERS) is estimated to have a net annual savings of approximately $2.408 million in addition to the total savings identified in Table 15 ($3,984,377) for an estimated savings of approximately $6,391,927 (Table 16).
5. Consolidation with all employees enrolled in a defined contribution plan (401(k)) is estimated to have savings for Employee Benefits of approximately $376,734 (Table 18). Because the unfunded liability payment would be eliminated and the contributions to the defined contribution plan would increase, the net total savings would be $3,897,717. However, this does not include the termination payment for CalPERS, which ranges from $10.4 million to $26 million (Table 17).
6. The estimated cost to terminate MWDOC's enrollment in CalPERS is between approximately $10.4 million and $26 million. A financing instrument could be used to pay this off over time (Table 17).
7. Transitional costs of consolidation will be incurred, but the total amount is unknown. These temporary expenses may include consultant fees to guide the process, legal fees related to modifying contracts/agreements, preparation of studies and planning documents such as a Capital Improvement Program, and overlapping staff positions and board members continuing their roles temporarily during the integration phase. Other potential costs can include OPEB liabilities, communication campaigns related to public relations and marketing, as well as technology and systems integration.
8. The projected annual revenues of the Successor Agency (including pass-through, net-neutral revenues) is estimated at approximately $517 million, of which the majority is from OCWD revenues (Table 19).
9. The projected Statement of Net Position for the Successor Agency estimates total assets (current and noncurrent) and total deferred outflows of resources at approximately $1.47 billion and total liabilities (current and noncurrent) at approximately $981 million. Therefore, the projected net position of the Successor Agency is a positive $485.6 million with the majority (67%) from unrestricted (Table 20).
10. Based on the financial analysis conducted herein using the last three years of adopted budgets as a baseline for the Successor Agency, and Statement of Net Position showing a healthy net positive value, consolidation of the two agencies is considered fiscally feasible and sustainable.
11. Water supply reliability and services to MWDOC's member agencies and OCWD's Groundwater Producers are not anticipated to be interrupted or diminished by a consolidation of the agencies.

12. The unified representation resulting from consolidation of OCWD and MWDOC may offer opportunities at the local, state, and federal levels for grants and low-interest loan funding opportunities, and legislative advocacy. However, if the provision of groundwater management and wholesale water services by the two agencies remains the status quo, then there may be opportunities for OCWD and MWDOC to collaborate on mutually beneficial efforts and projects and elimination of redundancies to improve efficiencies in water service delivery to Orange County ratepayers.

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APPENDIX A

Appendix A
MWDOC and OCWD Budget Line Item Explanations

Column 1 Line	Column 2 Line Item Descriptions Exactly as Printed in Adopted Budgets of Each Agency	Explanation why the budget line shows no value.
	Salaries & Wages	
1	Salaries & Wages	-
2	less for Recovery from Grants	OCWD: Grants are included in revenues, Rents, Royalties and Others
3	Overtime	MWDOC: This item is budgeted under: Salaries & Wages (Line 1)
4	Payroll Taxes	MWDOC: This item is budgeted under: Salaries & Wages (Line 1)
5	Capitalized Salaries	MWDOC: N/A – MWDOC does not have capitalizable expenses at this time
6	Temporary Workers - General Total	MWDOC: This item is budgeted under: Salaries & Wages (Line 1)
7	Expense - Contra	MWDOC: This item is budgeted under: Less for Recovery from Grants (Line 2)
	Employee Benefits	-
8	Employee Benefits	-
9	CALPERS Unfunded Liability Contribution	OCWD: N/A the District is not a defined benefit retirement
10	Health Insurance Coverage for Retirees	-
11	Retirement	MWDOC: Retirement is CalPERS and is posted to Employee Benefits (Line 8)
12	Capitalized Benefits	MWDOC: N/A – MWDOC does not have capitalizable expenses at this time
13	Retiree Health Trust	MWDOC: expense for retiree health is under Health Insurance Coverage for Retirees (Line 10)
	Director Fees & Costs	-
14	Director Compensation	-
15	Director Benefits	OCWD: Director benefits are included in Payroll Taxes, Retirement, and Workers' Comp (Lines 4, 8, 21)
16	MWD Representation	OCWD: The District does not have this expense
17	Election Expense	MWDOC: This item is budgeted under: Contribution to Election Reserve (Line 18)
18	Contribution to Election Reserve	OCWD: Election Expense is the same as MWDOC's Election Reserve (Line 17)
	Insurance Expense	-
19	Insurance Expense	-
20	Insurance Refund	MWDOC: N/A - MWDOC does not budget for Insurance Refund

Column 1 Line	Column 2 Line Item Descriptions Exactly as Printed in Adopted Budgets of Each Agency	Explanation why the budget line shows no value.
21	Workers' Compensation	MWDOC: This item is budgeted under: Insurance Expense (Line 19)
22	Claims Total	MWDOC: N/A - MWDOC does not budget for Claims Total
	Office Supplies/Expense	-
23	Office Expense - General Total	MWDOC: office expense is under: Outside Printing, Subscription & Books (Line 24); Office Supplies (Line 25); and Postage/Mail Delivery (Line 26)
24	Outside Printing, Subscription & Books	OCWD: Subscriptions are included in line 70 below
25	Office Supplies	OCWD: Office supplies are included in line 23 above
26	Postage / Mail Delivery	OCWD: Postage/Mail Delivery is included in line 23 above
	Supplies	-
27	Supplies - Water Loss Control	OCWD: the District does not have this expense category
28	Business Expense	OCWD: the District does not have this expense category
29	Chemicals - Polymer Total	MWDOC: N/A
30	Operational Supplies	MWDOC: supplies are under Office Supplies (Line 25) and Supplies - Water Loss Control (Line 27)
	Professional Fees	-
31	Legal Expense - General	-
32	Audit Expense	OCWD: This is included in Professional Services (Line 35)
33	Outside Consulting Expense	OCWD: This is included in Professional Services (Line 35)
34	Professional Fees	OCWD: This is included in Professional Services (Line 35)
35	Professional Services - General Total	MWDOC: This is budgeted under: Professional Fees (Line 34)
36	Legal Advertising Total	MWDOC: Advertising would be under Professional Fees (Line 34)
37	Professional Services - Engineer Total	MWDOC: Engineering Services is budgeted under: Outside Consulting Expense (Line 33)
38	Lab Samples Analysis Total	MWDOC: N/A
39	Security Program Total	MWDOC: N/A
	Rent	-
40	Rents & Leases	OCWD: This is included in Rent Equipment (Line 41)
41	Rent Equipment - Gen Total	MWDOC: N/A - MWDOC does not have any rental equipment
	Vehicle Expense	-
42	Vehicle Expense - Water Loss Control	OCWD: This is included in Maint Equipment (Line 48)
43	Automotive & Toll Road Expenses	OCWD: This is included in Gas & Diesel (Line 44)

Column 1 Line	Column 2 Line Item Descriptions Exactly as Printed in Adopted Budgets of Each Agency	Explanation why the budget line shows no value.
44	Gas & Diesel Fuel Total	MWDOC: This item is budgeted under: Vehicle Expense (Line 42)
45	Fuel - Off Road Total	MWDOC: N/A
	Repairs & Maintenance	-
46	Maintenance Expense	OCWD: This is included in Maintenance Equipment (Line 48)
47	Building Repair & Maintenance	OCWD: This is included in Building Repair & Maint (Line 49)
48	Maint Equipment	MWDOC: N/A - MWDOC does not have any Maintenance equipment
49	Building Repair & Maintenance	MWDOC: Same as MWDOC's Building Repair & Maintenance (Line 47)
	Computer & Software	-
50	Software Support & Expense	OCWD: This is included in Hardware/Software (Line 53)
51	Computer Maintenance	OCWD: This is included in Maintenance Equipment (Line 48)
52	Computers and Equipment	OCWD: This is included in Hardware/Software (Line 53)
53	Hardware/Software Total	MWDOC: This item is budgeted under: Software Support & Expense (Line 50), Computer Maintenance (Line 51) and Computers and Equipment (Line 52)
	Telephone Expense	-
54	Telecommunications Expense	-
	Memberships	-
55	Membership / Sponsorship	-
56	Center for Demographic Research Participation	OCWD: This is included in Membership/Sponsorship (Line 55)
	Conferences & Travel	
57	Conference Expense - Staff	OCWD: This is included in Travel/Conf./Mileage (Line 61)
58	Conference Expense - Directors	OCWD: This is included in Travel/Conf./Mileage (Line 61)
59	Travel & Accommodations - Staff	OCWD: This is included in Travel/Conf./Mileage (Line 61)
60	Travel & Accommodations - Directors	OCWD: This is included in Travel/Conf./Mileage (Line 61)
61	Travel/Conference/Mileage Total	MWDOC: This item is budgeted under: Conference Expense - Staff (Line 57), Conference Expense - Directors (Line 58), Travel & Accommodations - Staff, (Line 59) and Travel & Accommodations - Directors (Line 60)
	Utilities Expenses	-
62	Utilities - Electricity Total	MWDOC: All of MWDOC's utilities are shared with OCWD and paid through Office Maintenance (Line 46)

Column 1 Line	Column 2 Line Item Descriptions Exactly as Printed in Adopted Budgets of Each Agency	Explanation why the budget line shows no value.
63	Utilities - Electricity (66Kv Fv Site Sce) Total	MWDOC: N/A
64	Utilities Electrical Curtailment Power Cr	MWDOC: N/A
65	Utilities - Gas Total	MWDOC: N/A
66	Utilities - Water Total	MWDOC: N/A
	Training	
67	Training Expense	
68	Tuition Reimbursement	OCWD: This is included in Education Tuition Reimbursement (Line 69)
69	Education Tuition Reimbursement Total	MWDOC: This item is budgeted under: Tuition Reimbursement (Line 68)
70	Subscriptions Total	MWDOC: This item is budgeted under: Outside Printing, Subscription & Books (Line 24) or Membership/Sponsorship (Line 55)
	Misc Exp	-
71	Miscellaneous Expense	-
72	Temporary Help Expense	OCWD: This is included in Temporary Workers (Line 6)
73	MWDOC's Contribution to WEROC: Operations	OCWD: This is included in Inter Agency (Line 78)
74	WFB/County Banking Charge Total	MWDOC: Banking fees are included under Miscellaneous Expense (Line 71)
	Marketing	-
75	Event and Marketing	MWDOC: This item is budgeted under: Professional Fees (Line 34)
76	MWDOC Cost Share	MWDOC: N/A
	Inter-agency	-
77	Licenses And Permits Total	MWDOC: N/A
78	Inter Agency Total	MWDOC: N/A
79	Taxes & Assessments Total	MWDOC: N/A
	Capital Acquisition	-
80	Capital Acquisition (excluding building)	OCWD: This is included in Capital Projects (Line 82)
81	Capital Acq Prior Year Carryover Credit	OCWD: This is included in Capital Projects (Line 82)
82	Capital Projects (Debt & PAYGO funded)	MWDOC: This item is budgeted under: Capital Acquisition (excluding building) (Line 80) and Capital Acq Prior Year Carryover Credit (Line 81)

Column 1 Line	Column 2 Line Item Descriptions Exactly as Printed in Adopted Budgets of Each Agency	Explanation why the budget line shows no value.
83	New Equipment	MWDOC: This item is budgeted under: Capital Acquisition (excluding building) (Line 80) and Capital Acq Prior Year Carryover Credit (Line 81)
	Building Expense	-
84	MWDOC's Building Expense	OCWD: This is included in R&R Expenditures (Line 93)
85	Building Expense Prior Year Carryover Credit	OCWD: This is included in R&R Expenditures (Line 93)
	PFAS	-
86	PFAS O&M Expenditure	MWDOC: N/A
	Water Expenses	-
87	Water Purchases	-
88	Local Resource Program Incentives	OCWD: The District does not have this expense
89	Readiness-To-Serve Charge	OCWD: This is included in Water Purchases (Line 87)
90	Capacity Charge	OCWD: This is included in Water Purchases (Line 87)
91	SCP/SAC Pipeline Surcharge	OCWD: The District does not have this expense
	Debt Expenses	-
92	Debt Service	MWDOC: N/A
	Replacement and Refurbishment (R&R) Expenses	-
93	R&R Fund Expenditures	MWDOC: N/A
94	Appropriation to R&R Reserves	MWDOC: N/A
	Total (3-year average)	-

Note: Line item names appear exactly as they appear in the adopted budgets of each agency. Subheaders and grouping of line items were assigned by WEBB in consultation with each Agency.

APPENDIX B

Appendix B
Successor Agency Budget Explanation of Line Item Savings

The savings in Line 1 would result from reductions in staff salaries for the redundant employee positions identified in Table 5.3.2.
The savings in Line 8 would result from decreased cost of providing employee healthcare benefits because of reductions in staff identified in Table 5.3.2. No changes to retirement benefits are assumed in this instance of the budget. Changes to retirement benefits are shown in Tables 5.3.4 and 5.3.6. Notably the Retiree Health Trust for OCWD is significantly lower in FY 23/24 ($640,000) as compared to the two prior fiscal years ($10,139,956 in FY 21-22 and $10,711,809 in FY 22-23).
The savings in Lines 14 and 15 would result from a Successor Agency with a 10-member Board of Directors.
The savings in Lines 17 and 18 would result from only one election for one Successor Agency.
The savings in Line 21 would result from economies of scale due to reductions in staff identified in Table 5.3.2.
The savings in Lines 23, 24, and 25 would result from economies of scale due to reductions in staff identified in Table 5.3.2.
The savings in Lines 31, 32, 33, and 34 would result from economies of scale due to certain duplicative administrative overhead costs.
The savings in Lines 46 and 47 would result from the Successor Agency utilizing the same buildings that OCWD and MWDOC share.
The savings in Lines 50 through 53 would result from economies of scale due to reduced staff identified in Table 5.3.2 and based on the average costs of software, computer maintenance, computers and equipment, and software/hardware.
The savings in Line 54 would result from economies of scale due to reduced staff identified in Table 5.3.2 and based on the average costs of telecommunications.
The savings in Line 55 would result from economies of scale due to reduced staff identified in Table 5.3.2 and based on the average cost of membership/sponsorships.
The savings in Line 56 would result from reducing participation by one agency.
The savings in Line 57 is an estimated reduction of 30% due to reductions in staff identified in Table 5.3.2.
The savings in Line 58 is an estimated reduction of 50% due to reductions in the number of Directors from 17 to 10.
The savings in Line 59 is an estimated reduction of 30% due to reductions in staff identified in Table 5.3.2.
The savings in Line 60 is an estimated reduction of 50% due to reductions in the number of Directors from 17 to 10.
The savings in Line 61 is an estimated reduction of 30% due to reductions in staff identified in Table 5.3.2 and reduction in the number of Directors from 17 to 10.
The savings in Line 67 is due to reductions in staff identified in Table 5.3.2, calculated on a proportional basis to the reduction in full-time employees (FTE's).
The savings in Line 68 is the result of reductions in staff identified in Table 5.3.2. Line 69 is calculated to show the proportional increase in cost associated with the remaining staff of the Successor Agency.
No savings is expected in Line 87 because any potential savings resulting from consolidation related to water purchases would be offset by an equal reduction in revenue for the Successor Agency.

APPENDIX C

Existing Projects, Programs, and Contracts of MWDOC and OCWD

Municipal Water District of Orange County		
Contract or Program or Project	Description	Notes
1. America's Water Infrastructure Act (AWIA)	MWDOC's WEROC completed an effort to facilitate a contract with participating WEROC member agencies to address the requirements of America's Water Infrastructure Act (AWIA). The AWIA requires utilities to conduct a Risk and Resilience Assessment of their community water systems and develop a corresponding Emergency Response Plan.	Completed in 2022 and has a 5-year renewal period
2. Baker Pipeline	MWDOC owns the pipeline which conveys untreated water including all easements and right-of-way, subject to the right Irvine Ranch Water District (f.k.a., Los Alisos Water District) and El Toro Water District to also use the easements.	MWDOC has assigned or leased all of its capacity rights and obligations to District member agencies. The pipeline is estimated to have a remaining useful life of at least 20 years
3. Climate Adaption Master Plan	MWDOC has actively participated with The Metropolitan Water District of Southern California (MWD) in its development of this Plan.	
4. Consumer Confidence Reports	MWDOC has provided professional consulting services to MWDOC's 27-member agencies in coordinating and preparing mandated Water Quality, Consumer Confidence Reports (CCR's).	
5. Government Affairs Advocacy	MWDOC contracts with federal, state, and local lobbyists who provide representation to MWDOC and its member agencies in Washington D.C., Sacramento and throughout Orange County. MWDOC uses its contract lobbyists to advocate for issues that affect both MWDOC and its member agencies – issues that have significant impact on water providers throughout the county.	
6. Grants Tracking and Reporting	MWDOC entered into an agreement for grants tracking, writing and acquisition services. This service is made available to all member agencies and the consultant monitors and tracks potential funding opportunities for projects seeking funding.	

Existing Projects, Programs, and Contracts of MWDOC and OCWD

Municipal Water District of Orange County		
Contract or Program or Project	Description	Notes
7. Irvine Ranch Water District's Baker Treatment Plant	MWDOC performs the billing for all the participating agencies.	
8. K-12 Education Program – Grab-and-Go Activities, Water Education School Program	MWDOC in partnership with Orange County Department of Education (OCDE) have developed "Grab-and-Go" activities which are prepared and packaged by MWDOC and reviewed and vetted by OCDE. These are free activities offered to enhance educational programming. The MWDOC Water Education School Programs now serve Orange County students in Kindergarten through High School (K-12).	
9. Lead & Copper Rule Revision Shared Service Program	MWDOC assists Orange County water agencies in their compliance efforts with US EPA Federal regulations known as the *National Primary Drinking Water Regulation: Lead and Copper Rule Revisions*.	
10. Master Agreement with Cities of Anaheim, Fullerton, and Santa Ana	Streamlined many of MWDOC's regional programs through a single agreement that covers several programs. This formalization allows for timely processing of payments, clear delineation of program participation, and delineation of the roles and responsibilities for both signatories.	These agreements allow MWDOC and the Three Cities to work together on a variety of efforts including: -Urban Water Management Plan Shared Services -Water Use Efficiency Programs -Water Loss Control Shared Services & Water Loss Technical Assistance -MWDOC K-12 Water Education Programs -Lead & Copper Rule Revision Shared Services Program

Municipal Water District of Orange County		
Contract or Program or Project	Description	Notes
11. Memberships with Joint Powers Agencies (JPA)	MWDOC participates in multiple JPA agreements that involve joint operation and maintenance of facilities and infrastructure and the financing of insurance coverage. The joint agreements involving municipal service delivery include: • Santiago Aqueduct Commission – Operation and maintenance of the Baker Pipeline (previously called the Santiago Aqueduct Commission Pipeline) • Joint Exercise of Powers for Construction, Operation and Maintenance of the East Orange County Feeder No. 2 Pipeline – other parties are Metropolitan, Anaheim and Santa Ana	
12. MWDOC Headquarters	MWDOC owns its headquarters building. The land the headquarters building resides in is leased by OCWD to MWDOC per a joint agreement.	Continue remodel in Fiscal Year (FY) 2023-24 using funds in the FY 2023-24 budget.
13. Ocean Desalination Opportunities	MWDOC continues to work with local and regional water agencies on implementation planning for local resources projects, including the Doheny Ocean Desalination Project.	
14. Office Space at OC-70 Pump Station	The Water Emergency Response Organization of Orange County (WEROC) is administered by MWDOC to support and manage countywide emergency preparedness, planning, response, and recovery efforts among Orange County water and wastewater utilities. WEROC has a muti-party agreement with Metropolitan for use of this office space.	No current plans for improvements or expansion

Existing Projects, Programs, and Contracts of MWDOC and OCWD

Municipal Water District of Orange County		
Contract or Program or Project	Description	Notes
15. Outreach and Community Education	Outreach to the elected officials in the Orange County delegation on the local, state and national level and education on issues critical to the region. Through special education and outreach activities, Water Advisory Committee Orange County (WACO) meetings, Independent Special Districts of Orange County (ISDOC). MWDOC administers and negotiates Storage Agreements/Program for its member agencies. Among these include: -MWD/MWDOC/OCWD Conjunctive Use Storage Agreement -MWD/MWDOC/OCWD Cyclic Storage Agreement -MDW/MWDOC Cyclic In-Lieu Deliveries Program	
16. Public Awareness Campaign	MWDOC presently develops, coordinates, and delivers a substantial number of programs and services aimed at elevating stakeholders' awareness about water policy, efficient water use, and MWDOC's role in advocating for sound policy and water reliability investments that are in the best interest of Orange County.	
17. Reliability Planning Efforts	The Orange County Water Reliability Study is a comprehensive study of Orange County's long-term water reliability, providing valuable information to key decision makers regarding the future of Orange County's water supplies.	MWDOC's initial Orange County Reliability Study was in 2016, the study was updated in 2018, and most recently again in 2023.
18. South Emergency Operating Center (SEOC)	MWDOC has been leasing the Prothero Filtration Plant Facilities, a part of El Toro Water District, as the WEROC's South Emergency Operating Center. MWDOC also has an agreement with MWD to use their facility located off Peter Canyon Road in Orange as WEROC's North Emergency Operating Center (NEOC).	

Municipal Water District of Orange County		
Contract or Program or Project	Description	Notes
19. Strategic Communications Program and Plan	Developed through the foundational work completed through the Facilitated Discussions Project to ensure MWDOC's Strategic Priorities aligned with the needs of the community and MWDOC member agencies. Seven key goals were developed. This document serves as a blueprint, establishing a baseline understanding for how MWDOC's programs will provide information and value to its various stakeholders, partners, and employees; and support MWDOC's mission, goals, and objectives to secure long term water reliability for the region.	Completed in Fiscal Year 2023-2024
20. Urban Water Management Plans (UWMP)	In 2010, 2015, and 2020 MWDOC led the selection and administration of hiring a consultant to assist over 22 agencies (including Santa Ana and Fullerton) update their state mandated Urban Water Management Plans.	Conducted on a five year cycle
21. Water Loss Control Program	A hybrid program with policy, work group and grant acquisition related activities funded as a Core activity through the MWDOC General Fund and all other activities are Choice activities funded by participating retail agencies. All 32 retail agencies actively participate in MWDOC's choice-based Water Loss Control Program.	
22. Water Loss Control Technical Assistance	included one-on-one technical assistance from a consultant specializing in distribution system water loss and the establishment of an Orange County Water Loss Control Work Group. MWDOC now offers a total of ten services with several sub-tasks designed to assist agencies in obtaining compliance with the water loss mandate adopted by the legislature through Senate Bill (SB) 555 from 2015.	

Existing Projects, Programs, and Contracts of MWDOC and OCWD

Municipal Water District of Orange County		
Contract or Program or Project	Description	Notes
23. Water Loss Control Shared Services	Water Loss Control Shared Services include: • Water Balance Validation • Distribution System Leak Detection • Suspected Leak Investigations • Sales Meter Accuracy Testing • Distribution System Pressure Surveys • Distribution System Flushing MWDOC has secured funding from MWD to offset costs to participating retail agencies. These services are provided to agencies through a long-term shared services agreement between MWDOC and each agency. The agreement includes annual addendums that allow agencies to select which services they plan to access during the coming year.	MWDOC routinely evaluates the services offered and tailors them to reflect the needs of the Orange County retail agencies. Other Potential future Water Loss Control Shared Services include: Fire Hydrant Maintenance, Gate Valve Exercising, Air Release Valve Maintenance, Blow-off Assembly Maintenance, Cla-Val Automatic Control Valve Preventative Maintenance
24. Water Emergency Response Organization of Orange County (WREOC)	Managed and operated by MWDOC, WEROC is supported by a group of water and wastewater providers that include Anaheim, Fullerton, Santa Ana, Orange County Sanitation District, Orange County Water District, and South Orange County Wastewater Authority. Additionally, WEROC maintains an Emergency Operations Centers (EOC), which play a crucial role in the coordination of emergency response operations during disasters.	
25. Water Energy Education Alliance (WEEA)	Water Energy Education Alliance (WEEA) was created to build and bolster career pathways to water and energy jobs for Southern California students.	MWDOC began administration of WEEA in May 2020.

Existing Projects, Programs, and Contracts of MWDOC and OCWD

Municipal Water District of Orange County		
Contract or Program or Project	Description	Notes
26. Water Use Efficiency (WUE) Program	MWDOC collaborates with local water agencies, cities, and stakeholders to promote water use efficiency and sustainable water practices. MWDOC advocates for water-related policies at the state level, pushing for regulations and legislation that promote responsible water use.	

Source:

a. Webb Associates, *Responses from OCLAFCO MSR Survey for MWDOC*, September 15, 2023
b. OC LAFCO, *Municipal Service Review for the Municipal Water District of Orange County.* September 9, 2020

Existing Projects, Programs, and Contracts of MWDOC and OCWD

Orange County Water District		
Contract or Program or Project	Description	Notes
1. Alamitos Sea Water Barrier Project	OCWD has an agreement with LA County Public Works, the Water Replenishment System and the city of Long Beach to operate.	
2. Government Affairs	OCWD lobbyists at local, state, and federal levels.	
3. Green Acres Project	Deliver recycled water to 4 cities and one retail water agency	
4. Groundwater Laboratory Testing	OCWD provides to the Groundwater Producers the Philip L. Anthony Water Quality Laboratory	
5. Groundwater Replenishment System Program	OCWD expanded this water recycling project to replenish the groundwater basin. OCWD has an agreement with OC Sanitation for them to operate the system.	
6. JPA with the San Bernardino Valley Municipal Water District, Inland Empire Utilities Agency, and the Eastern and Western Municipal Water Districts	Through the JPA, OCWD participates in SAWPA. The JPA manages water supply and quality issues in the Santa Ana River Watershed.	
7. In-Lieu Program	Brings additional treated imported water supplies via MWDOC (when they are available for purchase) for Producers to use.	
8. MWD Long-Term Groundwater Storage Program	OCWD has a contract with MWD to store water in the local groundwater basin.	25-year agreement ends in 2028
9. Agreement and Lease	OCWD owns all of the land at its Fountain Valley headquarters, including the land under the OCWD and MWDOC buildings (collectively, the "Office Facilities"). OCWD owns about 66% and MWDOC owns 33% of the Shared Office Facilities. OCWD leases 50% of the land under the Office Facilities to MWDOC.	Agreement and Lease has a 50-year term from April 15, 1987 through April 15, 2037.

Existing Projects, Programs, and Contracts of MWDOC and OCWD

Orange County Water District		
Contract or Program or Project	Description	Notes
10. PFAS Grant Applications	• City of Fullerton • East Orange County Water District • Irvine Ranch Water District • City of Tustin • City of Orange	
11. PFAS Groundwater Treatment Systems	OCWD has an agreement with 15 Groundwater Producers to construct and operate PFAS groundwater treatment systems	OCWD will also pay for 50% of the annual operation and maintenance costs for these treatment systems
12. Prado Dam Wetlands	Constructed and operate natural wetlands behind Prado Dam to provide treatment to the Santa Ana River before it enters Orange County.	
13. Refurbishment and Replacement Program (R&R)	OCWD maintains this program to fund the replacement and repair of infrastructure.	The annual contribution to the fund increases 7%.
14. Santa Ana River Conservation and Conjunctive Use Program (SARCCUP) water bank	Prop. 84 grant between SAWPA and DWR for OCWD to store surplus State Project Water from MWD (extraordinary supply water) and imported water (local water).	
15. South OC Emergency Service Program	OCWD has a contract with these agencies to provide water supplies during emergency events.	Up for renewal in 2029.
16. Sunset Gap Seawater Intrusion Project	OCWD would fund the construction of this project to prevent seawater intrusion into the groundwater basin at this location.	This project would occur over the next 10 years. Seeking state and federal grant funding.

Source:

a. Webb Associates, *Responses from OCLAFCO MSR Survey for OCWD*, September 15, 2023
b. OCLAFCO, *Municipal Service Review and Sphere of Influence Update for the Orange County Water District.* September 10, 2024

ATTACHMENT 1

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Orange County Water District Municipal Service Review 2024

Comment Log

On November 15, 2024, OC LAFCO published the Public Review Draft of the Municipal Service Review (MSR) for the Orange County Water District including a Consolidation Feasibility Analysis of OCWD and Municipal Water District of Orange County. The public review period closed December 30, 2024. A total of seven comments were received. This comment log provides responses to the comments received from the following entities.

Commentor	Comment Date
Evan Martin	November 30, 2024
Steve Kerrigan	December 1, 2024
Orange County Water District (OCWD)	December 19, 2024
South Orange County Water Agencies Group	December 19, 2024
Municipal Water District of Orange County (MWDOC)	December 20, 2024
Jim Van Haun	December 21, 2024
Santa Margarita Water District (SMWD)	December 27, 2024

Commentor	Comment No.	Page	Location	Comment	Response
Evan Martin	1/1	-	-	I'm this case the merger makes sense for operational reasons, even with the negligible savings. If anything, it removes a distraction when dealing with the MWD in LA. Although, when municipal services mergers are mentioned in OC, OCFA hits the top of the list for regrets. As a Buena Park resident we still regret having to deal with the unreasonable costs and antiquated service model of the OCFA. Maybe someday our council will find the courage to do what Placentia did, and start a reasonable fire service.	Comment noted. No change to the report was made.
Steve Kerrigan	1/1	-	-	I read Terri Sforza's article in the paper today and wanted to weigh in on the merger between these 2 water agencies. I was on the Board of Directors of Santiago County Water District when LAFCO had us consolidate with IRWD. (I have been on the employee end of many mergers in the private sector-I know the qualms and worries.) There was initially some skepticism on the merger and fears of jobs, etc. Districts are not in the business of making employees comfortable. Our merger was the best thing for our customers by a mile. I could not be happier with IRWD, their people, rates and continual system improvements. I completely support the merger of OCWD and MWDOC. The argument about board representation and influence is just a power grab by the directors. Customers just want good quality, reliable, inexpensive and consistent water. They don't care about representation, board sizes or hurt feelings. I completely support the merger, it will be better for OC residents.	Comment noted. No change to the report was made.
OCWD	1/12	7	Executive Summary	The phrase at the bottom of the second paragraph "and to calculate the fee that each groundwater producer pays for each AF pumped (Replenishment Assessment)" should be deleted.	The cited text was an errant carryover from a previous draft of the report and has been deleted.

Commentor	Comment No.	Page	Location	Comment	Response
OCWD	2/12	7	Executive Summary	The assertion that the "OCWD Act limits the District from providing water outside of the Basin unless it is for the purpose of managing the Basin (OCWD Act, Section 2)," is not fully accurate and should be deleted. OCWD is specifically authorized by Section 2.6.g of the OCWD Act to "buy and sell water at such rates as shall be determined by the board of directors." While such sales must be for the "common benefit of the district," section 2 of the OCWD Act does not limit such sales to circumstances where sales are solely for the purpose of "managing the Basin." The corresponding assertion on page 143 of the study should also be deleted for the same reasons.	The cited text has been deleted. Section 6 of the Act stating "for the common benefit of the district and for the purpose of managing the groundwater basin…" is written conjunctively consistent with the purpose of OCWD's formation – to manage the basin.
OCWD	3/12	7	Executive Summary	The assertion that "the Basin is not adjudicated so there is no court judgment that stipulates how water rights are allocated and how management should occur," is not completely accurate. There are cases that touch upon the water rights of OCWD and Producers within the Basin as well as the District's authority to manage the Basin. To be more accurate, the assertion should be revised to read: "The Basin has not been comprehensively adjudicated by a court. However, the OCWD Act has long served as a form of "legislative physical solution" that authorizes OCWD to manage groundwater production based upon desired Basin conditions. Producers are generally able to pump up to their total water demand within OCWD, but pumping in excess of the Basin Production Percentage can trigger an additional assessment or surcharge."	The Act does not use the term "legislative physical solution" or "physical solution". While management of the basin has some attributes of a physical solution, this is not tantamount to a "legislative physical solution". Therefore, the cited text will be revised as follows: "The Basin has not been comprehensively adjudicated by a court. However, the OCWD Act has long served to provide economic incentives and disincentives for OCWD to manage groundwater production based upon desired Basin conditions. Producers are generally able to pump up to their total water demand within OCWD, but pumping in excess of the Basin Production Percentage can trigger an additional assessment or surcharge." A footnote has been added to mention the court cases that OCWD mentioned in the footnote of the comment letter.
OCWD	4/12	52	Section 3.3	Charts 6 and 7 – including total basin pumping in the pie charts seems unusual to OCWD.	The comment notes Charts 6 and 7 included water demand and water supply in the same pie charts for showing projected and actual water budgets in WY 2022-23. This data has been presented in a better way by using bar charts that separate demand from supply. The new graphs do not change the report narrative regarding the water budget of the groundwater basin.

Commentor	Comment No.	Page	Location	Comment	Response
OCWD	5/12	68	Section 3.5	The paragraph about OCWD and MWDOC sharing the same office property is generally correct, however, to avoid potential confusion, the term "Shared" should be removed from the term "Shared Office Facilities". The Agreement between OCWD and MWDOC refers specifically to "Office Facilities." Additionally, the Consolidation Study should be consistent in describing the ownership of the Office Facilities.	The word "Shared" has been deleted in locations when used in the phrase "Shared Office Facilities."
OCWD	6/12	112-116	Section 5.3, Table 13	We suggest the addition of a row at the bottom of table 13 summarizing MWDOC's expenses without "Water Expenses" (items 87-90). MWDOC acts as a middleman for the purchase of imported water by the cities and water districts in its service territory. Including "Water Expenses" greatly inflates and misrepresents the size of MWDOC's operations.	Although MWDOC has certain budget lines that are net neutral (money in, money out) because of their role as the local wholesaler of imported water, Table 13 represents total expenses in order to compare equally to total revenues in Table 19. No change made to report.
OCWD	7/12	117	Section 5.3, Table 14	Average Annual Salary for Administrative Assistant should be updated to $61,144.	Correction has been made to Table 14. Because this error was not made in the working Excel tables, no other changes to the tables were needed.
OCWD	8/12	147	Section 5.7	Finding Number 12 states that a consolidation "may" offer opportunities for unified representation of Orange County water suppliers at the local, state, and federal levels. By definition, a consolidation of OCWD and MWDOC would result in unified representation, as there would be only one Orange County water supplier, as highlighted in the 2022 Grand Jury report. Additionally, while OCWD concurs with the comment that collaboration between the agencies could potentially eliminate redundancies and improve efficiencies for the benefit of ratepayers, it should be noted that such collaboration would not achieve the comprehensive benefits and savings provided by a full consolidation.	The intent of Finding No. 12 is to affirm the fact that combining two agencies into one unifies the message and potentially reduces competition for funding opportunities. To clarify the intent of Finding No. 12, the cited text has been rephrased as follows, "The unified representation resulting from consolidation of OCWD and MWDOC may offer opportunities at the local, state, and federal levels for grants and low-interest loan funding opportunities, and legislative advocacy."
OCWD	9/12	140	Section 5.5	This section of the study appears to suggest that state legislation is not necessary if MWDOC was the successor agency of a consolidation, and that OC LAFCO could approve consolidation under the Municipal Water District Act. OCWD disagrees with this assessment and requests LAFCO's special counsel to further explain the legal basis for this suggestion in the next draft of the study. Specifically, how do MWDOC's existing statutory powers include all	The Act must expressly state OCWD's authority because as a special act district, unlike the Municipal Water District Act of 1911, OCWD cannot act except pursuant to those expressed powers. Because a 1911 Act district has enabling broad express and related implied powers, unlike a special act district it is not necessary to

Commentor	Comment No.	Page	Location	Comment	Response
				of OCWD's powers to manage the groundwater basin per the OCWD Act? Further explanation is needed because it has long been OCWD's position and legal opinion – as reflected in former General Counsel Joel Kuperberg's persuasive 2013 legal memorandum, which is cited on page 138 and footnote 32 of the study – that the Municipal Water District Act does not contain sufficient existing legal authority to permit exercise of all existing powers of OCWD by a successor agency post consolidation. OCWD exercises unique authorities under the OCWD Act with regard to management of the Basin utilizing economic incentives, disincentives and penalties granted to the District per the OCWD Act to control the amount of water pumped each year. None of these authorities, which are core to the finance and function of OCWD, can be found in the Municipal Water District Act – no matter how "municipal" in character it might be. OCWD is not aware of any other special district, whether organized as a 1911 Act District or otherwise, that exercises all of the authorities that OCWD uses to manage the Basin within OCWD, and indeed the Sustainable Groundwater Management Act (SGMA) was passed in 2014 in part because of lingering questions about the existing legal authority of special districts, such as 1911 Act Districts (which do not have police power), to manage groundwater outside of specific state legislative authorizations. Moreover, the study should explain how the three appointed members of the OCWD Board from the Cities of Anaheim, Santa Ana, and Fullerton, whose ***appointment*** to the OCWD Board of Directors is specifically directed by the OCWD Act, could operate under the Municipal Water District Act which requires that all of its directors be elected, and that the Board, as defined in the OCWD Act, is the entity responsible for all exercise of OCWD's powers. See OCWD Act Section 3.	specifically enumerate the means of exercising those powers for groundwater management purposes. The comments assume that any application to consolidate with MWDOC as the successor entity would wholly employ and exercise OCWD's special act methods and means to manage the groundwater basin. Consequently, unless and until an application is filed that addresses the methods and means of managing the groundwater basin, the need for or advisability of enabling legislation is speculative. No change was made to the report in response to this comment.
OCWD	10/12	108	Section 5.1	The report states that the 2013 Grand Jury report recommended keeping OCWD and MWDOC separate. OCWD questions whether this is entirely accurate. The 2013 report was initiated "to inform the public about the sustainability of their water supply and what needs to be done in the future to keep the tap running." While the Grand Jury recommended that OCWD and MWDOC continue their separate roles, it did not specifically examine the merits of consolidation.	The cited text has been rephrased as follows to clarify each report's conclusions: "The two most recent reports on this topic from the Orange County Grand Jury that could be located for this study are from 2013 and 2022. The 2013 study did not specifically investigate the merits of consolidating OCWD and MWDOC and recommended that the two agencies "should

Commentor	Comment No.	Page	Location	Comment	Response
					continue their role in coordinating water planning.” The 2022 study had two recommendations; first, “By January 2023, Orange County wholesale water agencies should formally begin analysis and collaboration towards forming a single wholesale water authority or comparable agency to operate and represent wholesale water operations and interests of all imported and ground water supplies;” and second, “Any future “One Voice” consolidated Orange County wholesale water authority should have directors that examine and vote on issues considering the unique needs of all water districts.”
OCWD	11/12	126	Section 5.3, Table 17	OCWD requests clarification on whether the discount rates shown in the table have been reversed.	To correct an inadvertent error in Table 17, the discount rates were reversed, as well as the price inflation rates. This does not change the content of the narrative around the Table.
OCWD	12/12	118	Section 5.3	OCWD does not necessarily concur with the immediate establishment of a ten-member Board of Directors for the successor agency. OCWD believes other options are available to initially combine both boards, with a possible gradual reduction to an appropriate number over time.	Comment noted. The study assumed an ultimate number of 10 board members that the Successor Agency would arrive at eventually. As stated on page 120 of the Feasibility Study, OCWD and MWDOC have a combined 17 board members. The number of board members for the Successor Agency and any process of gradual reduction over time would be addressed through the submittal of an application and plan for service including selection of the Successor Agency’s principal act. Refer to Section 5.6 (Plan for Service) of the Feasibility Study, which outlines CKH Act Section 56653 and the contents of a Plan for Service. This topic is also discussed in the response to MWDOC comment 8/15, below. Because the Successor Agency is unknown, the study had to assume the number of ultimate board members. No change to the report was made.

Commentor	Comment No.	Page	Location	Comment	Response
South Orange County Water Agencies	1/5	-	-	The Public Review Draft's analysis remains at the cumulative level instead of at a ratepayer/resident group level. Because of this, it is unclear whether "cross subsidies" would be present between OCWD customers and MWDOC customers, if the two agencies were to consolidate. Fundamentally, we believe each ratepayer group should pay its fair share, no more or no less.	The study is intentionally a Feasibility Study that does not drill down to a ratepayer/resident group level. That level of detail would be done as part of a "plan of service" (or "plan for providing services") pursuant to CKH Act section 56653 resulting from an application for consolidation. Refer to Section 5.6 (Plan for Service) of the Feasibility Study, which outlines CKH Act Section 56653 and the contents of a Plan for Service. "Cross subsidization" occurs when one group of customers subsidize lower prices for another group. The comment correctly asserts that OCWD customers and MWDOC customers pay their fair share upon consolidation, consistent with CKH Act section 57502. A reference to this Gov Code section has been added to Section 5.3 of the Feasibility Study. Refer to the response to MWDOC comment 13/15, below. No change to the report has been made in response to this comment.
South Orange County Water Agencies	2/5	10, 80	-	As a point of clarification, OCWD is not – as alleged in the Public Review Draft – the "largest buyer of imported water supplies from MWDOC" (see page 10 and MSR Determination 5 on page 80). In fact, three of the retail water agencies serving south Orange County individually purchased substantially more imported water than OCWD.	The cited text has been deleted. "Largest buyer" can be defined in more than one way (e.g., largest by size or largest by budget or largest by volume, etc.) and the amount purchased varies each year; nonetheless, the amount of water purchased each year is not a metric used by the study to gauge feasibility and therefore it was removed.
South Orange County	3/5	-	-	We agree that implementing the most favorable organizational structure in any consolidation can achieve operating efficiencies, reduce costs through consolidated staffing, streamline outside administrative and legal support, and optimize internal operating	The comment correctly notes the costs of consolidation that would remain unknown until such an action is pursued and a Successor Agency identified.

Commentor	Comment No.	Page	Location	Comment	Response
Water Agencies				practices. The Public Review Draft identifies potential operational efficiencies from a consolidation between OCWD and MWDOC, but the amount of cost savings is speculative due to several important factors, which are discussed in the Draft, being unknown at this time. Consolidation costs associated with severance of pension liabilities, debt obligations, and transition-related expenses – to highlight a few – could substantially alter the value of any cost savings. The Public Review Draft makes generous consolidation assumptions and forecasts cost savings at $3.98 million annually, excluding retirement costs. This represents an approximately 0.7% decrease in costs (see Section 5.7 Findings, Number 2). We are concerned that given the significant number of unknown costs not included in the evaluation that this number may not be realistic and may not align with an actual outcome. Even if the assumed assumptions were realized, the cost savings must be weighed against the impacts on water services to the various customer groups. The analysis leaves open the question if all Orange County residents will see a cost savings of $1.27 per year. It also fails to evaluate whether some customers would save money while others would see increased costs. Further, it is important to note that the "best case" anticipated savings from a potential consolidation would likely be modest, especially when offset by transition costs that could amount to tens of millions of dollars.	Discussion of the termination liability for CalPERS is discussed on pages 126-127 of the Study, which includes Table 17 under the retirement plan scenario 3. Although in the long-term, this is not actual cost savings but rather a drastic change in the timing of payments related to the pension plan's unfunded liability. The discussion surrounding the calculation of the liability is limited because the calculation is performed by CalPERS. Other liabilities, such as debt, would almost certainly not be terminated. The consolidated entity would continue paying those obligations, consistent with CKH Act section 57502. Transaction-related expense changes other than those addressed would most likely be negligible. Certain redundant contracts could be eliminated, such as having two banking relationships, payroll processors, etc. These more detailed considerations would be included as part of an application and specifically in a plan of service that outlines the costs and revenues of consolidation, as described in Section 5.6 of the Feasibility Study. Regarding assumed savings impacting service: The assumption of the Study is that the Successor Agency will maintain existing service levels consistent with CKH Act Section 56653 and as described in a plan of service submitted with an application to LAFCO. This study does not contemplate any other scenario. The comment suggests that potential efficiencies found through consolidation of two wholesale water agencies would appear as a savings on the water bills of metered customers. This presumption

Commentor	Comment No.	Page	Location	Comment	Response
					leaves out some key unknowns that were beyond the scope of this study, such as the identification of a Successor Agency and its Principal Act, and an understanding of each retail member agency's budget approach from year to year on how they handle the changing fees received from their wholesale water agencies. Indeed, according to their proposed FY 2024-25 budgets, the OCWD Replenishment Assessment and MWDOC's Water Sales/Purchases are expected to increase from FY 2023-24. As described in Section 5.6 of the Feasibility Study, a plan of service for the Successor Agency must outline its costs to provide the service and how services will be financed. No change to the report has been made in response to this comment.
South Orange County Water Agencies	4/5	-	-	The Public Review Draft acknowledges the strong governance of both OCWD and MWDOC, and that both are successfully fulfilling their respective operational responsibilities. While both agencies are well-positioned financially and operationally, the report does not identify how the clear division of roles and responsibilities that OCWD and MWDOC have to distinct customers would be handled in a consolidation, and how long-term reliability of water supply and effective water resource management in the region would be truly enhanced. The benefits to regional water management that the Public Review Draft does expand upon are the coordination of grants and legislation. The report notes that this coordination and collaboration could occur without consolidation. It is worth noting that all water agency managers in Orange County support coordination and collaboration among agencies – including OCWD and MWDOC- when mutual benefits can be realized. What the Public Review Draft does discuss at length is the need for legislative action on the enabling act of OCWD, MWDOC, and/or MWD. In our collective experience, enacting legislation is an inherently complex and uncertain process. It is highly likely that any	The comment correctly notes the details that would have to be discerned as part of an application with a plan of service including roles and responsibilities to each retail water agency customer. In the absence of an identified Successor Agency, the Study assumed that roles and responsibilities of MWDOC and OCWD member agencies remain constant. The Study also assumes, consistent with the CKH Act, the same level of services would be provided regardless of who the Successor Agency is. Furthermore, the goal of the study was not to discover how water supply reliability and water resource management would be enhanced, but instead to discern feasibility of consolidation. Section 5.4 of the Feasibility Study describes other opportunities of consolidation (other than potential cost savings) and discloses that they are qualitative and subjective.

Commentor	Comment No.	Page	Location	Comment	Response
				proposed change to any of the authorizing acts for OCWD, MWDOC, or MWD would face opposition from external stakeholders, including MWD and other parties with vested interests in the outcome. Such opposition could further complicate and delay the legislative process, increasing both the time, costs, and other challenges associated with pursuing consolidation. We believe this would be particularly true when it comes to the total number of seats at a consolidated agency (which should be an odd number instead of an even 10 as included in the Public Review Draft), with any change to how MWD seats are selected, and with any change in the agencies that may become MWD member agencies.	The comment correctly notes the challenges posed with either agency being the Successor Agency. No change to the report has been made in response to this comment.
South Orange County Water Agencies	5/5	-	-	Over the past four decades, the feasibility of consolidating OCWD and MWDOC has been the subject of numerous analyses and Orange County Grand Jury reports. These inquiries, similar in scope to the current LAFCO study, looked at both the potential costs and benefits of merging the two entities. The Public Review Draft acknowledges that some of these examinations recommended a consolidation, and some did not. This is because any consolidation of OCWD and MWDOC would be complex, and the suggested benefits may not outweigh the risks and costs involved. Without clear and compelling evidence of substantial efficiencies and benefits to both MWDOC and OCWD, as well as the overall Orange County water community and customers, the governance structure of Orange County's wholesale water agencies should remain unchanged. We encourage careful consideration of these factors and complexities, and how they may impact any of the benefits the Public Review Draft cities.	Comment noted. The purpose of the Feasibility Study was to evaluate potential cost savings of an unidentified Successor Agency, the legal steps that could be needed depending on who the Successor Agency could be, and the next steps that could be taken if an agency submitted an application to LAFCO for consolidation. The Feasibility Study does not provide recommendations for action on consolidation. The Feasibility Study is the first of its kind to go into such financial detail compared to prior consolidation discussions (i.e., 1994 WWAPG reorganization study2013 and 2022 OC Grand Jury studies). The comment correctly notes the complexity and financial risk of undertaking a consolidation. An application to LAFCO would be required as stated in Section 5.6 of the Study, to have a plan of service that would lay out the costs, revenues, and services that would be provided. No change was made to the report in response to this comment.
MWDOC	1/15	-	-	After carefully reviewing the Report, particularly regarding the feasibility study of potential consolidation between MWDOC and OCWD, we have identified several aspects of the analysis that warrant your Commission's attention, analysis, and consideration.	Comment noted. This feasibility study is the result of a request by OCWD to OC LAFCO. The scope of this study is based on that request. The comment identifies the limitation of the

Commentor	Comment No.	Page	Location	Comment	Response
				After a thorough analysis of the MSR and SOI Public Review Draft, MWDOC has identified significant concerns that call into question the feasibility and benefits of the proposed consolidation. Our detailed review reveals fundamental flaws in the financial analysis, serious governance concerns, and a lack of demonstrable water management benefits for Orange County. The projected cost savings appear to be significantly overstated, while transition costs and operational risks are understated or omitted entirely. Furthermore, the study fails to adequately consider less disruptive alternatives that could achieve many of the stated objectives through enhanced collaboration between the existing agencies. This response outlines five critical themes that warrant careful consideration: (1) Flawed financial analysis, overstated benefits, and underestimated transition costs; (2) Significant governance and representation concerns that could diminish local control; (3) Absence of clear water management benefits for Orange County; (4) Potential unintended consequences that could harm ratepayers; and (5) Disproportionate impact on MWDOC and the non-basin agencies (South County cities and agencies, and the cities of Brea and La Habra). MWDOC firmly believes this Report relies on flawed data, superficial assumptions, and insufficient depth of research to support such a significant reorganization of Orange County's water management structure. By design, MWDOC and OCWD have different governing acts because each agency was established and authorized to serve separate and distinct functions within the water community. As the Report highlights, consolidating the two agencies would be challenging, time-consuming, and costly. Further, the most recent MSR of each agency, MWDOC (MSR 20-09) and OCWD (MSR 23-06), identified no deficiencies or significant operational issues. Determination 3 of each MSR stated that each agency is adequately prepared to provide its member agencies with public services within its authorization. Thus, this consolidation feasibility study appears to be a solution in search of a problem.	Feasibility Study, that without an identified Successor Agency and Principal Act, this is the first of many in a long series of steps should consolidation be pursued. Also, identifying demonstrable water management benefits and analyzing alternatives to consolidation were beyond the scope of the Study. The projected cost-savings are estimates based on best available information publicly available and provided by each agency for the Study. The comment is correct that transitional costs are unknown until a Successor Agency is identified in a plan of service. As described in Section 5.6 of the Feasibility Study, a plan of service would contain details specific to the Successor Agency and Principal Act. The comment suggests the Study is insufficient to support consolidation, when in fact, the Study finds that it is feasible considering the noted limitations. The comment identifies 5 themes, which are addressed in the proceeding responses to MWDOC comments. No change was made to the report in response to this comment.

Commentor	Comment No.	Page	Location	Comment	Response
MWDOC	2/15	-	-	The Report does not provide compelling evidence that consolidation offers additional benefits to the county other than opportunities for further collaboration, which the Report notes are "qualitative and subjective." In addition, the comparative financial analysis included in the Report is overly simplistic and contains erroneous assumptions that appear to overstate the estimated cost savings from consolidation. The scope of the study is also very narrow. It lacks a "deep dive" into the full range of issues and consequences of potential consolidation that OCWD appeared to request in its October 4, 2022, application to LAFCO.	Comment noted. The Feasibility Study was limited to analyzing the feasibility of consolidation, with benefits measured in potential annual average cost-savings for an unidentified Successor Agency. The comment suggests discussion of the "full range of issues and consequences," which would not be useful at this stage unless they were quantifiable or to be provided in future plan of service. However, as noted by the comment, many such issues are not quantifiable and rather qualitative. No change has been made to the report in response to this comment.
MWDOC	3/15	-	-	Often, the study relies on claims and conclusions that are unsubstantiated by evidence and examples or based on erroneous data and assumptions. For instance, the Report incorrectly asserts that OCWD is the largest purchaser of imported water when, in fact, several South Orange County districts each have exceeded the amount purchased by OCWD over the past three years.5 Moreover, OCWD has not purchased any water in the last two years and has publicly stated that the agency has no plan to purchase imported water from MWDOC in the foreseeable future.	Please refer to Chart 1 on page 31 of the public review draft document, which shows the annual variability of water volumes purchased from MWDOC by OCWD, including through 2023 which is greater than zero. Refer also to SOCWA comment 2/5, above. In addition, OCWD's annual average budget for purchased water over the prior three years is approximately $9 million. Since the volume purchased from MWDOC is not a metric by which to gauge feasibility, the cited assertion has been deleted from the report.
MWDOC	4/15	-	-	The study contains several critical methodological flaws that suggest support for a predetermined outcome rather than an objective analysis. It is heavily reliant upon the pro-consolidation 2022 Grand Jury report, while giving minimal, if any, weight to similar Grand Jury analyses done in 1994 (before the incorporation of the cities of Laguna Woods, Rancho Santa Margarita, and Aliso Viejo) and 2013. These reports concluded that MWDOC and OCWD have vastly different water management roles and responsibilities and should remain separate.	The comment incorrectly suggests that the Feasibility Study had a predetermined outcome. The purpose of the Feasibility Study was to evaluate potential cost savings of an unidentified Successor Agency, the legal steps that could be used depending on who the Successor Agency could be, and the next steps that could be taken if an agency submitted an application to LAFCO for consolidation. OCWD's request to LAFCO to include the Feasibility Study with their MSR update was spurred by the 2022 Grand Jury Report; therefore, it is reasonable for the Study to address some of the Grand Jury's findings.

Commentor	Comment No.	Page	Location	Comment	Response
					Furthermore, prior consolidation studies have not included the level of financial or legal detail that this Feasibility study includes (see 1994 WWAPG reorganization study 2013 and 2022 OC Grand Jury studies). Any conclusions drawn from this analysis are to provide results to assist with direction on next steps. The report purposefully does not draw conclusions or provide recommendations. Findings based on the study are provided as a tool to make decisions. No change has been made to the report in response to this comment.
MWDOC	5/15	-	-	Claims about improved coordination and representation are unsupported by concrete evidence or specific examples in which lack of coordination has resulted in demonstrable adverse outcomes. Instead, the analysis relies heavily on anecdotal conclusions rather than quantitative data to support assertions about the potential benefits of consolidation. The Report lacks critical elements necessary for informed decision-making, such as a detailed implementation timeline or transition plan, sufficient analysis of service disruption risks during the transition, a complete analysis of governance and representation impacts, consideration of improved water resource benefits, adequate assessment of long-term liabilities, and stress testing of financial projections.	The comment appears to highlight the "Other Opportunities of Consolidation" listed in Section 5.4 of the Feasibility Study, which discloses said opportunities are "qualitative and subjective." The Feasibility Study makes no claims that Section 5.4 is anything other than anecdotal based on the 2022 Grand Jury Report and discussions with OCWD. The comment is correct that this study intentionally omits elements such as a detailed implementation timeline, transition plan, or other steps which are not known at this time because a Successor Agency is unknown and were not part of the purpose and goal of the Study. These would be part of a plan of service if there was an application submitted to LAFCO for a proposed consolidation. No change has been made to the report in response to this comment.
MWDOC	6/15	-	-	Finally, the Report fails to adequately explore less disruptive alternatives to a potential consolidation. Many of the cited benefits - including unified advocacy and operational efficiencies - could be achieved through improved collaboration and coordination while maintaining essential checks and balances in the current two-agency structure.	The Feasibility Study is the result of OCWD's application for a Comprehensive OCWD MSR and feasibility study of a potential consolidation between OCWD and MWDOC. Reviewing alternatives to consolidation would be beyond the scope of the Study. The comment suggests

Commentor	Comment No.	Page	Location	Comment	Response
					that checks and balances are an essential part of the OCWD/MWDOC structure. This system of preventing any one agency from becoming too powerful is not addressed in the Study; however, the Study does highlight an example of one of many agencies that are successful as both groundwater manager and wholesale water importer (see page 138 of Feasibility Study). No change has been made to the report in response to this comment.
MWDOC	7/15	117	Table 14	The financial analysis contains several significant oversimplifications and questionable assumptions that raise questions regarding the projected savings of $3.98 to $6.39 million annually. The study bases projections on just three years of historical data. It fails to adequately reflect long-term trends or future needs while simultaneously overstating potential cost savings through unrealistic assumptions about operational efficiencies and staff reductions. The Report significantly overestimates potential cost savings from these suggested staff reductions. It is erroneous to simply assume positions with similar titles can be eliminated without accounting for specialized duties and expertise required for groundwater versus imported water management. For example, the Director of Engineering for MWDOC and OCWD have functions and responsibilities that are dramatically different from each other. Eliminating either position would result in a potential loss of specialized expertise critical to operations, cause operational impacts of these reductions on service delivery, and add integration challenges of merging different operational systems and procedures. Simply eliminating positions with the same title does not reflect the current workload for those positions. Work would still need to be done, and staff resources would be required because the Successor Agency would have broader responsibilities and an increased scope and business systems to maintain. As such, and without a detailed workload analysis, the number of positions the Report assumes could be eliminated under a consolidation appears to be overstated.	The comment is correct that three years of data were used instead of one year in order to smooth the impact of any unusual operational outcomes. Regarding long-term trends and future needs, the Feasibility Study is based on the last three years of agency budgets, which include revenues and expenses for things like, Capital Improvement Projects and water purchases, which reflect future needs of the agency to provide their respective services. The comment is correct that long-term projections are omitted from this report. This study focused on quantified forward planning that was available in published budget documents. The inclusion of unquantified or speculative projects/expenses/revenues would not have informed feasibility. Should an application for consolidation be submitted to LAFCO, projections related to water purchasing or capital improvements and related funding would be included with that plan of service. The study evaluates potential savings realized from reductions of redundant staff when the two agencies are combined. It would not be reasonable to consider a consolidation such as this without elimination of redundant positions. The selection of redundant positions is described on page 117 of the Study: redundant positions

Commentor	Comment No.	Page	Location	Comment	Response
				The administrative expense reductions are inflated through unrealistic assumptions about operational efficiencies and proportionate reductions in administrative costs based upon the overstated staff reductions. For example, building and maintenance expenses, which the analysis shows are reduced with consolidation, ignore the fact that all building facilities would still be utilized and would continue to need maintenance. The Report also includes reductions in membership and sponsorship costs, legal and professional service fees, training, and other administrative costs that are proportionately based on the overstated reductions in staff; this is not a proper analysis of determining cost savings.	were determined as positions in both agencies with the same title or similar role and presumably similar responsibilities that could be reorganized into a single position or eliminated. The Study assumed staff holding the identified positions would possess similar skills, knowledge, and experience. While their skills, knowledge, and experience may not be identical, our approach assumed they could gain any qualifications necessary to fill gaps, or that other potential applicants would possess these skills. For reference, the Study assumed 264 full-time equivalent positions and identified 18 as potentially redundant (6.8%). Please refer to Table 14 that shows nearly half of the 18 positions identified as potentially redundant have average annual salaries of less than $100,000. On the other hand, the Successor Agency could find that consolidation resulted in a position description that requires a new set of skills that cannot be provided by existing staff from either agency. A plan of service would contain information on the composition of Successor Agency staff. The study shows that building and maintenance cost savings in total net to $0. This can be seen in Table 15, rows 46 through 49. All savings realized in MWDOC rows are fully offset by increases to Successor Agency rows, with the subtotal for Repairs and Maintenance showing $0 change. No change has been made to the report in response to this comment.
MWDOC	8/15	118		The Report analysis assumes that the Successor Agency will also achieve cost savings by reducing board seats from 17 to 10 members. The assumption of a 10-member Board is arbitrary and is not supported in the Report by analysis or recommendations	The number of board members of the Successor Agency would be described in a plan of service submitted with an application for consolidation to LAFCO. The principal act chosen for the

Commentor	Comment No.	Page	Location	Comment	Response
				regarding a proposed governance structure or considerations relating to balanced Board representation. In fact, under current statute, for the consolidated agency to be a Metropolitan Water District of Southern California (Metropolitan) member agency, it would need to be formed under MWDOC's principal act, the Municipal Water District Act of 1911, versus OCWD's groundwater management act. The Municipal Water District Act only allows for 5, 7, or 11 members, not 10 members, as assumed in the Report.	Successor Agency would be a factor in deciding the number of directors. Since the principal act of the Successor Agency is unknown at this time, the number of directors was preliminarily estimated at 10. Please refer to Table 15, which shows the potential savings realized from savings to "Director Fees & Costs" (lines 14-18) that would not be a significant savings compared to the savings from redundant employee positions eliminated (Table 14). According to Water Code Division 20 (Municipal Water Districts) section 71250.1(a), LAFCO may increase the number of directors to 7, 9, or 11 in approving a consolidation of districts. Also, Water Code Section 71250.1(b) states the total number of members on the board of directors whose terms expire following the date of consolidation shall be reduced until the number equals the number allowed by the principal act of the consolidated district, or any larger number as may be specified by the LAFCO in approving the consolidation. Therefore, the number of Directors is still to be determined. Regardless, the ultimate number of Board members assumed for the study, whether 7, 9, 10 or 11, would not significantly impact the results of this study. No change has been made to the report in response to this comment.
MWDOC	9/15	125	Table 16	Another significant error in the Report appears to be the estimated $2.41 million savings in annual retirement costs shown in Table 16. These savings are based upon converting all OCWD's 226 employees from their existing 401(k) defined contribution program to MWDOC's existing CalPERS program and is the only retirement scenario analyzed in the Report that demonstrated significant net savings. However, the inclusion of the $2.41 million annual savings as a benefit of consolidation is specious and should be removed from the Report. Specifically, as previously noted, this scenario calls	The inclusion of $2.41 million in savings contemplates the need for a government entity to provide the same benefits to all its employees. Without consolidation, there would be no need to consider such a change in benefits as both organizations already offer all available benefits to all eligible employees.

Commentor	Comment No.	Page	Location	Comment	Response
				for OCWD's employees to convert to CalPERS while MWDOC's employees remain in CalPERS. The study fails to disclose that the vast majority of these savings could be achieved today by OCWD independently converting its employees to CalPERS without consolidation. Although there may be some minor savings from the disputed staff reductions through consolidation, this would be an inconsequentially small portion of the $2.41 million annual savings, making it inappropriate to include this amount in the Report as a benefit of consolidation. Transition costs, which are a financial impact of consolidation and not a benefit, are acknowledged but unquantified, particularly potential CalPERS termination payment of $10.4 million to $26 million (if OCWD's retirement plan option was selected), legal and consulting costs for contract modifications, technology and systems integration expenses, and staff training and reorganization costs. These expenditures would also diminish the overall projected savings listed in the Report.	The comment is correct that transition costs are unquantified and would be known at such time an application for consolidation with a plan of service with Successor Agency and Principal Act identified is submitted to LAFCO. No change has been made to the report in response to this comment.
MWDOC	10/15			Lastly, the Report fails to analyze potential impacts on MWDOC's existing revenue structure, member agency relationships, and revenue-generating capabilities; instead, the Report simply combines current revenues without examining how consolidation might affect them. This requires further examination of the recent rate increase trends of both agencies. The actual cost savings would be far less than projected in the Report and insufficient to justify such a significant reorganization, particularly given the lack of workload analysis to support estimated staff reductions, the significantly overstated retirement plan savings and the unquantified transition costs.	OCWD's revenue structure is described in detail in MSR Section 3.4. In Table 19 of the Feasibility Study, three fiscal years of revenues for both MWDOC and OCWD are averaged to develop a Successor Agency average annual revenue. The Study assumed no changes in average annual revenue of the Successor Agency based on the assumption the Successor Agency would provide the same services as currently provided by OCWD and MWDOC. "Services are expected to remain the same for the same population of member agencies and groundwater producers at the same service levels" (p. 130). This same assumption extends to the projected change (or lack thereof) of member agency relationships, which the Study assumed would not have a quantifiable effect to expenses or revenues. No change has been made to the report in response to this comment.

Commentor	Comment No.	Page	Location	Comment	Response
MWDOC	11/15			The Report's treatment of governance challenges reveals critical oversights and a lack of analysis that presents serious legal and practical concerns that cannot be overlooked. For example, current statutes do not allow the Successor Agency to be formed under the OCWD Act and be a Metropolitan member agency. If the Successor Agency was formed under the Municipal Water District Act, it could be a Metropolitan member agency but would need to have OCWD's authorities incorporated, requiring legislation. Any new Successor Agency would need to have equal populous divisions, whether formed under the Municipal Water District Act or otherwise. The Voting Rights Act of 1965 and related legal principles require that voting districts, including divisions within a Municipal Water District, comply with the principle of equal population to ensure fair representation. OCWD was formed as a groundwater management agency in 1933, and its Board is an artifact hybrid of elected and appointed Board members that do not represent equal populous divisions. For example, OCWD's Fullerton division represents 139,250 people, while its Anaheim division represents 340,512 people. To ensure fair and equitable representation throughout the County, the Successor Agency would need to implement balanced Board divisions. The Report ignores this issue and how it would be resolved. The Report also does not address how the Successor Agency would vote on various matters, particularly those matters relating to groundwater basin issues, those pertaining to imported water and issues, and items relating to setting the consolidated agency's water rates and charges. A bifurcated voting system creates an unwieldy and potentially unworkable governance model where certain Board members would be limited to voting on specific matters. Moreover, disparate voting rights, where some Board members would be disallowed from voting on certain matters, is completely contrary to the intent of a "unified" countywide Successor Agency. Finally, the analysis does not address how the Successor Agency would ensure balanced representation among basin and non-basin agencies (i.e., South County cities and agencies, Brea, and La Habra) while protecting their unique needs and interests.	Regarding paragraph 1 of the comment, please refer to the response to OCWD comment 9/12. The comment is correct that the feasibility study did not include resolution to implementing balanced Board divisions and bifurcated voting system, which are outside of the scope of the Feasibility Study. These items would be described in a plan of service submitted with a consolidation application to LAFCO. The comment is correct that coordination can currently occur without consolidation. Although competition for funding was not implied, confusion amongst funders was implied. No changes were made to the report in response to this comment.

Commentor	Comment No.	Page	Location	Comment	Response
				On legislative and policy matters, coordination can currently occur without consolidation. MWDOC and OCWD presently have regularly scheduled joint planning meetings and numerous opportunities exist to meet with, host, and provide briefing materials to legislators and members of Congress. In the joint planning meetings, the agencies have ample opportunities to have "…collaborative, deliberative and action-oriented…" dialogue as recommended in the Report and to jointly formulate positions and legislative requests. Finally, the Report incorrectly implies that there is "competition" for state and federal funding among MWDOC and OCWD. No examples were given of such competition, nor were there any instances where MWDOC or OCWD may have displaced each other for funding. Moreover, coordination in seeking state and federal funding can be achieved without consolidation and such coordination among MWDOC, OCWD, and their collective member agencies has occurred successfully in the past.	
MWDOC	12/15			The study does not demonstrate any meaningful improvements to water resource management in Orange County. In response to this Report, OCWD's Board has adopted a formal position to preserve the "...Groundwater Producers sole access to the Orange County Groundwater Basin..." under a consolidation with MWDOC. As a result, south Orange County, along with the Cities of Brea and La Habra, would realize no emergency supply reliability, drought mitigation or other water resource management benefits from the Orange County groundwater basin. In fact, when consolidation was analyzed in 2006, OCWD itself concluded that water management would not be improved with consolidation because the Successor Agency envisioned by OCWD would not allow access to the groundwater basin for south Orange County. Absent access to the groundwater basin or any beneficial utilization thereof, there is no discernible water resource benefit to south Orange County agencies or the cities of La Habra and Brea of being incorporated into a single Successor Agency with potentially diminished Board representation and a reduced focus on the imported water supplies. The Report fails to address these issues	The comment suggests that granting access to the OC Groundwater Basin for south Orange County water agencies would be a meaningful improvement to water resource management in Orange County. This is debatable since it would most certainly trigger expensive and lengthy lawsuits. OCWD currently provides an emergency water supply pipeline to south Orange County water agencies (South OC Emergency Services program) and is in the planning stages for a second pipeline (Public Review Draft MSR, p. 63). As stated in the footnote on page 24 of the Feasibility Study, the City of La Habra is technically within the Santa Ana River Watershed and the OC Groundwater Basin but is not in OCWD's sphere of influence. City of Brea is partly in the SOI. This is because La Habra and Brea's

Commentor	Comment No.	Page	Location	Comment	Response
				and does not identify higher levels of water supply reliability, drought protection, or other water resource or management benefits for the County as a result of consolidation.	portion of the Basin is hydrologically separate from OCWD's portion and the Cities have managed it as such; specifically, OCWD's surface water recharge efforts do not replenish La Habra/Brea's part of the Basin and instead, groundwater flows from La Habra/Brea into the OCWD area. The Cities of La Habra and Brea have formed the City of La Habra Groundwater Sustainability Agency (GSA) and at one time requested to DWR for an internal jurisdictional boundary modification to remove the cities from the OC Basin and create a new groundwater basin, but DWR has not issued a decision. Therefore, it is unclear how much reliance these two cities have on OCWD. The comment refers to an unnamed 2006 study, which is presumably the 2006 MSR/SOI Update for OCWD and specifically section B.6 (*Merge OCWD with MWDOC*) on p. 56. However, the 2006 MSR/SOI Update does not reference access to the groundwater basin for south Orange County. It actually says, "This government structure reorganization option has not been considered in the past due to the differing missions of these agencies" and furthermore, "This option is not considered feasible for other reasons including: Implementing it would take an act of legislation because it involves changing OCWD's principal act. A merging of these two agencies would not necessarily achieve great efficiencies in overall management of water resources in Orange County. Keeping these two agencies separate maintains an important check and balance system, preventing one agency from having control over water supply for the entire County."

Commentor	Comment No.	Page	Location	Comment	Response
					No change was made to the report as a result of this comment.
MWDOC	13/15			Several potential negative consequences require further analysis or clarification. The Cortese Knox Hertzberg Act mandates that existing debt and expenditures remain with current constituents in any consolidation, and OCWD has adopted a position that it would not spread its existing debt to the non-basin portions of the county. Still, the study does not acknowledge or address this issue or how other future costs of a consolidated agency would be distributed to agencies that receive no direct benefit from the groundwater basin (South County cities and agencies, Brea, and La Habra). The Report also does not address how the Successor Agency's overall operating expenses would be allocated on a county-wide basis or the potential impacts on rates and charges. Similarly, the Report does not address the potential implications of OPEB-related liabilities, other outstanding legal obligations, and their associated future costs, nor does it evaluate the impact of these costs on the existing customers of OCWD and MWDOC in the event of consolidation. There are also potential detrimental consequences to the County's representation at Metropolitan that were neither analyzed nor disclosed in the Report. Specifically, a successor countywide water agency consolidating OCWD and MWDOC would need to incorporate the territory of Fullerton, Santa Ana, and Anaheim, per the expanded SOI. In doing so, under the current Metropolitan Act, the new consolidated agency could lose seats on the Metropolitan Board. This is because the Metropolitan Act provides one director for each member agency and one additional director for each 5% of the Assessed Valuation (AV) in the Metropolitan service area. Specifically, in 2024, MWDOC has 16.76% of the AV and has four Metropolitan directors. Fullerton (0.68% of AV), Santa Ana (0.88% of AV), and Anaheim (1.55% of AV) each have one Metropolitan director. Under consolidation, the total AV of the consolidated Successor Agency would be 19.87% of Metropolitan's AV. This would result in only four directors for the Successor Agency with	A reference to Gov Code section 57502 was added to Section 5.3 of the Feasibility Study under Programs, Contracts, and Agreements. Section 57502 speaks to the liability for payment of bonds and obligations of predecessor districts and specifically, that debt existing prior to a consolidation will stay with the territory of the district as it was before consolidation. This addition supports the existing discussion on page 131 of Gov Code Section 56653, which speaks to the current services would be continued by the Successor Agency at the same levels and to the same member agencies and groundwater producers within the newly consolidated boundary. Regarding Brea and La Habra, refer to MWDOC comment 12/15, above. The comment is correct that OCWD's comment letter dated December 19, 2024 on the draft MSR/SOI and Feasibility Study listed five bullet points described as, "key consolidation principles to counter and clarify any misinformation in the water community which might exist." Bullet no. 5 states, "Existing OCWD debt would be repaid by the Groundwater Producers and not shared with the South Orange County agencies." The comment is correct that the study does not address how operating expenses would affect the rates of the Successor Agency, if at all. The Study does estimate potential annual average savings in operating expenses. The allocation of future debts and costs would be determined after the identification of a Successor Agency and Principal Act as part of a plan of service.

Commentor	Comment No.	Page	Location	Comment	Response
				Orange County risking the loss of three seats on the Metropolitan Board and the three cities likely to lose both their director representation and sovereignty at Metropolitan.	The comment is correct regarding transitional costs that would need to be considered in a plan of service. Also, plan elimination costs are likely to be included in a plan of service similar to pension benefits. These costs are identified in Finding no. 7 in Section 5.7 of the Study. "OPEB liabilities" was added to Finding no. 7. Regarding paragraphs 3 and 4 of the comment, unless governance or other benefits are identified in any consolidation application that avoid or compensate for the loss of Orange County MWD seats, there is no need to incorporate the territory of the three MWD cities and thereby yield the three cities' MWD sovereignty into any successor countywide successor entity. No change was made to the report as a result of this comment.
MWDOC	14/15			The analysis in the Report advances a course that would appear to require MWDOC to bear a disproportionate share of the transitional impacts of consolidation. MWDOC would shoulder most of the transition risks and costs while OCWD maintains its revenue base and gains expanded capabilities. The consolidation threatens MWDOC's established and effective Metropolitan Water District representation without clear benefits to offset this loss. The Report fails to justify dismantling MWDOC's successful operational model and established member agency relationships. MWDOC would take on additional operational complexities and responsibilities without apparent corresponding efficiencies or financial benefits. As previously noted, without access to the groundwater basin, there is no discernable benefit to South Orange County and the cities of Brea and La Habra by being incorporated into a larger Successor Agency with more divergent interests. Non-basin agencies would experience a dilution in representation on the Successor Agency's board and as previously noted, could have	The costs of consolidation are spelled out in a plan of service submitted with a consolidation application. The Successor Agency would shoulder the costs. How that trickles down to retailers/member agencies would be determined in a plan of service. The transitional costs of consolidation are one-time expenses, and the revenue of the Successor Agency would be ongoing; therefore, transitional costs can be eventually offset by the annual future savings of consolidating. Regarding representation to Metropolitan, see above response to OCWD comment 9/12. Regarding Brea and La Habra, see above response to MWDOC comment 12/15.

Commentor	Comment No.	Page	Location	Comment	Response
				reduced Board representation at Metropolitan. Representation at Metropolitan is particularly important to South County cities and agencies, which receive the vast majority their water supplies through Metropolitan's imported water system.	No change was made to the report as a result of this comment.
MWDOC	15/15			While MWDOC supports exploring opportunities for improved efficiency in water management, this feasibility study does not provide evidence that consolidation would benefit Orange County water suppliers or their customers. A Successor Agency with a bifurcated voting system creates an inefficient governance model without balanced representation among basin and non-basin agencies and the potential for reduced representation for Orange County on the Metropolitan Board. Importantly, the Report fails to consider consolidation alternatives adequately. Many of the cited benefits - including unified regional, state, and federal advocacy, coordinated grant applications, and operational efficiencies - could be achieved through improved collaboration between the agencies while maintaining the current structure's essential checks and balances. We recommend that OCWD and MWDOC focus on opportunities to improve service efficiencies and coordination activities for the benefit of all retail water agencies in Orange County. We believe that such an approach will provide far more significant benefits without the risks, governance issues, and consolidation costs. Some examples of these opportunities, including activities that are currently being undertaken, are as follows: • Increase Coordination and Collaboration on Metropolitan Water District Issues: Coordinated positions on key Metropolitan issues. Joint advocacy for Orange County's interests. Shared strategic planning for imported water management. Inclusive of MWDOC, OCWD, and the Metropolitan Directors representing OCWD's service area (Fullerton, Santa Ana, and Anaheim). • Enhanced Coordination on Pursuing State and Federal Funding: Joint application development for major funding opportunities. Shared resources for grant writing, administration, and advocacy.	Comment noted. No change was made to the report as a result of this comment.

Commentor	Comment No.	Page	Location	Comment	Response
				Coordinated joint regional project planning and grant funding coordination with MWDOC's and OCWD's member agencies. • Joint Legislative Advocacy: Combined legislative advocacy efforts and resources where appropriate. Coordinated response to all material regulatory proposals or changes. Joint development of countywide water policy principles and priorities. • Identify and Pursue Expanded Partnership Opportunities: Joint public education and outreach programs. Shared emergency response planning. Combined water resources and water use efficiency programs. • Strengthened Cooperative Opportunities: Shared staffing, technical, and other consultant resources, where appropriate. Coordinated long-term water supply planning on a collaborative countywide basis. The most recent Municipal Service Reviews (MSR) of each agency, MWDOC (20-09)14 and OCWD (MSR 23-06),15 identified no deficiencies or significant operational issues. Determination 3 of each MSR stated that each agency is adequately prepared to provide its member agencies with public services within its authorization. The consolidation feasibility study appears to be a solution in search of a problem. As such, the MWDOC Board does not see merit or value resulting from consolidation. MWDOC remains committed to working constructively with OCWD and all regional partners to ensure reliable water supplies for Orange County and is open to working with OCWD on the collaborative approaches outlined above to further enhance our services. We appreciate your consideration of these comments as you prepare the Final Report and welcome the opportunity to discuss them further.	
Jim Van Haun	1/1	-	-	I am in receipt of the above referenced document and am in a unique position to comment on it. My name is Jim Van Haun and I am the only person to have served in Senior Management for both	Comment noted. No change to the report has been made in response to this comment.

Commentor	Comment No.	Page	Location	Comment	Response
				OCWD & MWDOC. I was in Senior Management at MWDOC from 1978-1986 and at OCWD from 1986-1998. I served as the lead in many merger papers and discussions over that 20 year period. I was also the lead staff member for the Water Advisory Committee of Orange County when I lead the effort to form it in 1983 until 1998. I was also President of the Orange County Water Association in 1995. When I left OCWD in 1998, I served as Assistant General Manager. Having seen & often participated in numerous merger attempts over the past four decades, I believe now is the time to merge the two Districts into one with OCWD being the remaining agency. The reasons are numerous and compelling which I will outline in this letter. I was hired in 1978 by MWDOC as their Public Affairs Director. At that time, the District's staff was comprised of a General Manager, Assistant General Manager, an Accounting Manager and three support staff. The District needed a Public Affairs Director because it was about to embark on its first project, the construction of the Allen/McCulloch Pipeline (AMP) to bring imported water into fast growing South Orange County. As part of the hiring process, the GM made it clear that after the construction of the pipeline, which would take a couple of years, my services many not be needed. In fact, he stated that MWDOC might revert to its original function as an agency performing a purchasing and accounting function, or may be dissolved into OCWD. That was in 1978. The P&A duties were the only function MWDOC carried out from its inception in 1951-1977. It had a part-time GM and accountant only. The water of course came from MWD where they also appointed MWD Directors to the MWD Board as the need arose which was not often. After the construction of the AMP in the early 1980's, the MWDOC Board decided that it should not revert to a purchasing & accounting function but rather seek ways of expanding its scope. This lead to creating a water conservation & emergency preparedness function that carries forward to today. It also took it upon itself later to conduct regional planning studies on topics such as water supply reliability. A lot of this of course was already being done by MWD, OCWD and retail water agencies. This lead to an	

Commentor	Comment No.	Page	Location	Comment	Response
				increasing concern among the cities and retail water districts that obtained water from MWDOC via MWD to insist that MWDOC institute "Core" and "Choice" programs and transitioning to fixed charges to recover costs for its core functions. This is the case today. These fixed charges come from the consumer ultimately and are composed of a charge on retail water meters and an annual groundwater replenishment charge which is charged to OCWD. Elimination of these two charges would save millions of dollars to the consumer annually. Numerous examples of a single agency that is less confusing, more efficient and less costly is the San Diego County Water Authority. The leaders and water consumers of San Diego County know exactly who coordinates and serves the regional water needs of the county. It is very obvious that there is a big difference in the size of OCWD & MWDOC. For example, the annual budget of OCWD is $190 million, whereas MWDOC's is $10 mission. OCWD's budget is 19 times that of MWDOC. Similarly, OCWD has 220 full-time employees where MWDOC has 33, many of which, are duplicative with OCWD's. In the past 25 years, MWDOC's employee count has roughly doubled despite little change in perceived or real responsibility. Merging two or more water districts that ensures full and accountable representation is not without precedent. Numerous examples exist in Orange County alone. Rather recently, the Los Alisos Water District, Santiago County Water District and the Orange Park Acres Mutual Water Company along with their Boards merged into the Irvine Ranch Water District. The mergers resulted in more efficiency, cost savings and more accountability. With the OCWD/MWDOC merger, it has been projected that about $3 million in annual savings can be achieved through combined labor & expenses. This can be done efficiently by following the example of the IRWD mergers. The employees of the merged agencies were offered similar positions in the remaining agency, offered a severance package or retirement.	

Commentor	Comment No.	Page	Location	Comment	Response
				Numerous and obvious advantages would be achieved with a merger of the two agencies; they include: • Greater public accountability and more efficient governance will be achieved • Confusion currently associated with the roles of the two agencies among the rate payers of Orange County and local, State and Federal officials will be eliminated. • Streamlined, more effective and focused representation with MWD will be realized. • Overlapping responsibilities and occasional friction among the agencies will be eliminated. • More efficient and effective water resource management and planning will occur to better coordinate groundwater and imported water resources for the benefit of the entire County. • A more streamlined and smaller Board of Directors will be realized, while still ensuring effective representation. • Over a relatively short period of time, an estimated annual savings of $3 million will be realized through economies of scale and other operational efficiencies. • MWDOC's current reserves can be used for staff and benefit costs and other liabilities associated with merging MWDOC into the successor agency, ensuring financial integrity and avoiding cross-subsidy. As has been demonstrated for years, the idea of merging the two agencies is not new. It has been debated for a least 4 decades. In fact, the Orange County Grand Jury has recommended it at least twice. Unfortunately, to no avail. It would have been far easier to have merged the agencies decades ago. Some will say that the merger process is too difficult. But this has been achieved many times before. Yes, there will be some items to be negotiated like the CAL PERS termination but CAL PERS has dealt with this many times before. Some things in life are difficult but are necessary and are beneficial for decades to come. This is one of those. Upon my departure from MWDOC in 1986, the Board presented me with a wooden plaque that reads, "The Board of Directors of MWDOC extends its sincere	

Commentor	Comment No.	Page	Location	Comment	Response
				appreciation to Jim Van Haun for his years contributing his knowledge, effort and time to MWDOC and the water industry as a whole". So I write this not to diminish MWDOC, but to encourage the next positive chapter in water management in Orange County.	
Santa Margarita Water District	1/1			The Grand Jury Report released on June 14, 2024, focused on three areas- potential consolidation of OCWD and MWDOC; SMWD's acquisition of the City of San Juan Capistrano water and wastewater system; and challenges occurring with the South Orange County Wastewater Authority. The District's thoughts regarding the potential consolidation of OCWD and MWDOC are captured within the joint responses by the South Orange County Water Agencies. Additionally, we are pleased to see the more collaborative approach inspired by the new general managers of OCWD and MWDOC and are encouraged by their shared leadership.	The comment notes, "…thoughts regarding the potential consolidation of OCWD and MWDOC are captured within the joint responses by the South Orange County Water Agencies." The remainder of this letter pertains to a different matter. Please refer to the aforementioned comments made by the South Orange County Water Agencies. No change to the report has been made in response to this comment.

MSR 23-06

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA

MAKING DETERMINATIONS AND APPROVING THE FOCUSED MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE ORANGE COUNTY WATER DISTRICT AND FEASIBILITY ANALYSIS OF THE POTENTIAL CONSOLIDATION OF ORANGE COUNTY WATER DISTRICT AND MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

March 12, 2025

On motion of Commissioner _______________, duly seconded and carried, the following resolution was adopted:

WHEREAS, California Government Code Section 56430 requires that in order to prepare and to update Spheres of Influence, the Commission shall conduct Municipal Service Reviews (MSRs) prior to or in conjunction with action to update or adopt a sphere of influence; and

WHEREAS, the Local Agency Formation Commission of Orange County (OC LAFCO) has completed three previous cycles of MSRs, and has prepared a Focused MSR for the Orange County Water District and Sphere of Influence Update and Feasibility Analysis of the Potential Consolidation of Orange County Water District (OCWD) and Municipal Water District of Orange County (MWDOC) to address the seven MSR determinations; and

WHEREAS, the report identified in this Resolution (MSR 23-06) contains a statement of determinations as required by California Government Code Section 56430 for the municipal services provided by OCWD; and

WHEREAS, copies of the MSR report and Statement of Determinations in this Resolution are available for public review in the OC LAFCO offices and on the OC LAFCO website; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56427, set March 12, 2025 as the hearing date on this MSR report and Statement of Determinations and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56427, has prepared a report, including her recommendations thereon, and has provided a copy of this report to each affected agency entitled to a copy; and

WHEREAS, the report consists of the adoption of the MSR Statement of Determinations for OCWD; and

WHEREAS, this Commission called for and held a public hearing on the MSR report and Statement of Determinations on March 12, 2025, and at the hearing this Commission heard and received all oral and written comments, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this MSR and the report of the Executive Officer; and

WHEREAS, pursuant to the California Environmental Quality Act, the MSR for OCWD was determined to be exempt from CEQA under State CEQA Guidelines.

NOW, THEREFORE, the Local Agency Formation Commission of Orange County (OC LAFCO) DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

<u>Section 1. Environmental Actions.</u>

a) The "Focused Municipal Service Review and Sphere of Influence Update for the Orange County Water District and Feasibility Analysis of the Potential Consolidation of Orange County Water District and Municipal Water District of Orange County (MSR 23-06)" together with the written Statement of Determinations are determined by the Commission, as the lead agency, to be exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines §15262, Feasibility and Planning Studies.

b) The Commission directs the Executive Officer to file a Notice of Exemption, shown as "Exhibit 1," with the Orange County Clerk-Recorder as the lead agency under Section 15062.

Section 2. Determinations.

a) This review is assigned the following distinctive short-form designation: "Focused Municipal Service Review for the Orange County Water District and Sphere of Influence Update and Feasibility Analysis of the Potential Consolidation of Orange County Water District and Municipal Water District of Orange County (MSR 23-06)."

b) The Executive Officer's staff report and recommendation for the approval of the MSR for the Orange County Water District, dated March 12, 2025, are hereby approved.

c) The Commission has adopted the accompanying Statement of Determinations for the OCWD, shown as "Exhibit 1A."

Section 3. Mail Copy of Resolution.

The Executive Officer shall mail a copy of this Resolution as provided in Government Code Section 56882.

Section 4. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of OC LAFCO. The custodian for these records is Orange County Local Agency Formation Commission, 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

AYES:

NOES:

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, Donald P. Wagner, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 12th day of March 2025.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March 2025.

DONALD P. WAGNER
Chair of the Local Agency Formation
Commission of Orange County

By: ___________________________
Donald P. Wagner

EXHIBIT: 1

NOTICE OF EXEMPTION

TO: ☐	Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044	FROM: (Public Agency)	Local Agency Formation Commission of Orange County (Lead Agency)
☒	Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 400 W. Civic Center Drive, Sixth Floor Santa Ana, CA 92701	Address	2677 North Main Street Suite 1050 Santa Ana, CA 92705

1. Project Title:	"Focused Municipal Service Review and Sphere of Influence Update for the Orange County Water District and Potential Consolidation of the Orange County Water District (MSR 23-06) and Municipal Water District of Orange County"
2. Project Applicant:	Local Agency Formation Commission of Orange County
3. Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	The project area encompasses a service area that includes 430 square miles and the city boundaries of Anaheim, Buena Park, Costa Mesa, Cypress, Fountain Valley, Garden Grove, Huntington Beach, La Palma, Los Alamitos, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster and Yorba Linda, portions of the Orange and Fullerton, and portions of unincorporated Orange County.
4. (a) Project Location – Cities and Special Districts	The project area encompasses the cities of Anaheim, Buena Park, Costa Mesa, Cypress, Fountain Valley, Garden Grove, Huntington Beach, La Palma, Los Alamitos, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster and Yorba Linda, portions of Orange and Fullerton, portions of unincorporated Orange County, and the service boundaries of East Orange Water District, Golden State Water Company, Irvine Ranch Water District, Mesa Water District, Serrano Water District, and Yorba Linda Water District.
(b) Project Location – County	Orange
5. Description of nature, purpose, and beneficiaries of Project:	Conduct a review of the municipal services provided by the Orange County Water District.
6. Name of Public Agency approving project:	Local Agency Formation Commission of Orange County
7. Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the	Local Agency Formation Commission of Orange County

Public Agency as part of the activity:				
8.	Exempt status: (check one)			
(a)	☐	Ministerial project.		(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)
(b)	☐	Not a project.		
(c)	☐	Emergency Project.		(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b), (c))
(d)	☐	Categorical Exemption. State type and section number:		One single-family residence, or second dwelling unit in residential zone. Class 3 § 15303(a)
(e)	☐	Declared Emergency.		(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	☒	Statutory Exemption. State Code section number:		CEQA Guidelines §15262 (Feasibility and Planning Studies)
(g)	☐	Other. Explanation:		
9.	Reason why project was exempt:			The Focused Municipal Service Review and Statement of Determinations are exempt from CEQA under CEQA Guidelines Section 15262: Feasibility and Planning Studies. A project involving only feasibility or planning studies for possible future actions which the agency, board or commission has not approved, adopted or funded does not require the preparation of an EIR or Negative Declaration.
10.	Lead Agency Contact Person:			Luis Tapia, Assistant Executive Officer
	Telephone:			(714) 640-5100
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.			
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes ☒ No ☐			
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes ☒ No ☐ If yes, the date of the public hearing was: March 12, 2025			

Signature:___________________________________ Date:________________ Title: Executive Officer

Name:

☒ Signed by Lead Agency ☐ Signed by Applicant

Date Received for Filing: ____________________________

Authority cited: Sections 21083 and 21110, Public Resources Code. Reference: Sections 21108, 21152, and 21152.1, Public Resources Code

EXHIBIT 1A: MSR STATEMENT OF DETERMINATIONS for the Orange County Water District

DETERMINATION 1: GROWTH AND POPULATION PROJECTIONS FOR THE AFFECTED AREA.

The Orange County Water District (OCWD) sphere of influence (SOI) encompasses 569 square miles including 52 square miles of ocean, 125 square miles of unincorporated Orange County, and includes 27 cities in the northern and central portions of Orange County. Within its Service Area of 430 square miles, OCWD manages the Orange County Groundwater Basin (Basin) and acts as a wholesale groundwater supplier to the retail water suppliers of northern and central Orange County. The Basin provides approximately 85 percent of the drinking water supply to the people within its Service Area.

OCWD has no land use authority and therefore relies on the information provided by the county and cities within its Service Area to estimate future changes in population and land use in order to forecast water demands on the Basin. The District also uses demographic data including projections of population, housing, and employment produced by the Center for Demographic Research (CDR) at California State University, Fullerton. According to CDR, the population of the OCWD Service Area is 2.44 million people as of 2020, which is projected to increase to a peak of 2.55 million people by 2045. (CDR's projection is based on the OCWD Service Area and not the entire sphere of influence of OCWD.) Based on the current and projected increase of approximately 4.5 percent over 25 years, there will be a continuing need for groundwater supplies and OCWD's management of the Basin.

OCWD prepares forecasts of water demands in its annual Engineer's Report and periodically in the Groundwater Management Plan based on recorded water use patterns and expected constraints on groundwater quality. The retail water suppliers within the Service Area ("19 Groundwater Producers") also prepare forecasts of water demands within their respective service areas and communicate their expected groundwater pumping to OCWD. The present and future needs provided by OCWD are addressed in the annual *Comprehensive Annual Financial Report* (CAFR), *Annual Budget Report*, and annual *Capital Improvement Program* (CIP). The CIP is a multiyear plan of improvements to the District's infrastructure taking into account District priorities, policies, and budget.

Based on review of the data, water demands within OCWD Service Area are expected to be met over the planning horizon of this MSR analysis including the future increase in population, given the following factors: (1) the District's collaboration with CDR to proactively monitor demographic changes in the Service Area and in particular, population growth; (2) District projections accounting for future growth in each Groundwater Producer's service areas; and (3) the District's demonstrated ability to meet greater water demands in the past as compared to current water demands.

DETERMINATION 2: THE LOCATION AND CHARACTERISTICS OF ANY DISADVANTAGED UNINCORPORATED COMMUNITIES WITHIN OR CONTIGUOUS TO THE AFFECTED SPHERE OF INFLUENCE.

The Center for Demographic Research at California State University, Fullerton (CDR) provided information on census block boundaries and the current statewide median household income threshold, from which 11 Disadvantaged Unincorporated Communities (DUCs) within the OCWD sphere of influence (SOI) were

EXHIBIT 1A: MSR STATEMENT OF DETERMINATIONS
for the Orange County Water District MSR

identified. Specifically, the DUCs are located within OCWD Division 1 and the SOIs of the Cities of Anaheim, Stanton, and Westminster. The DUCs receive water service from the Cities of Anaheim and Westminster and Golden State Water Company, as well as several private mutual water companies (Hynes Estates Mutual Water Company, Midway City Mutual Water Company, Eastside Water Association, and South Midway City Mutual Water Company). The Cities of Anaheim and Westminster as well as Golden State Water Company are three of the 19 Groundwater Producer Agencies of OCWD. The DUCs total 0.85 square mile (541 acres) and are part of larger urban communities with land uses dominated by residential, commercial, industrial, and recreational uses.

DETERMINATION 3: PRESENT AND PLANNED CAPACITY OF PUBLIC FACILITIES, ADEQUACY OF PUBLIC SERVICES, AND INFRASTRUCTURE NEEDS OR DEFICIENCIES INCLUDING NEEDS OR DEFICIENCIES RELATED TO SEWERS, MUNICIPAL AND INDUSTRIAL WATER, AND STRUCTURAL FIRE PROTECTION IN ANY DISADVANTAGED, UNINCORPORATED COMMUNITIES WITHIN OR CONTIGUOUS TO THE AFFECTED SPHERE OF INFLUENCE.

OCWD was created by a special act of the state legislature in 1933 (the OCWD Act) to manage the Orange County Groundwater Basin (Basin) for the Groundwater Producers. Therefore, in order to balance the effects of groundwater pumping, OCWD has facilities to maximize recharge of the Basin using local surface water, stormwater runoff, reclaimed wastewater, and imported water supplies. OCWD does not directly serve water to retail customers, such as homes and businesses; therefore, OCWD's facility capacity and sufficient infrastructure relates to water reclamation and recharge facilities for OCWD to fulfill its mandate in the OCWD Act to sustainably manage the Basin.

Managing 85 percent of the water supply for the 2.44 million residents of northern and central Orange County, OCWD performs deliberate planning efforts for maintaining its infrastructure through its Replacement and Refurbishment (R&R) Model. The R&R Model is user-driven and proprietary; it tracks the useful life spans of all the District's infrastructure to prioritize facilities that need repair or replacement. The R&R Model forecasts into the future how much budget will be required for repairs and the annual contribution to the R&R fund increases each year to reflect the increasing costs of maintenance. According to the R&R Model, sufficient funds will be available for maintenance of infrastructure for the next 25 years.

During WY 2022-2023, the Basin showed a net increase of 69,000 acre-feet (AF) attributable to OCWD's network of 25 recharge basins capturing higher-than-average rainfall, and less than expected pumping rates attributable to the presence of PFAS. In regard to capacity, OCWD has several water rights and entitlements to water supplies. OCWD is pursuing an expansion of its water rights to the Santa Ana River flows based on additional capture and storage projects that it recently completed. OCWD also has an entitlement to purchase an amount of imported water up to that which it can recharge, which is a maximum of 300,000 AF (if all of the recharge basins are empty). OCWD has an entitlement to recycled water produced from its Groundwater Replenishment System (GWRS) up to 130 million gallons per day, dependent on the flows received from Orange County Sanitation District (OC San). Based on the results of the water supplies acquired and recharge that occurred in WY 22-23, it can be reasonably determined that the OCWD facilities

EXHIBIT 1A: MSR STATEMENT OF DETERMINATIONS for the Orange County Water District MSR

A total of 11 DUCs have been identified within OCWD. All of the DUCs are located in OCWD Division 1, within the SOIs of the Cities of Anaheim, Stanton, and Westminster. Retail water service is provided to the DUCs by the Cities of Anaheim and Stanton and Golden State Water Company, as well as four mutual water companies (Hynes Estates Mutual Water Company, Midway City Mutual Water Company, Eastside Water Association, and South Midway City Mutual Water Company). Although the DUCs are located within the Service Area of OCWD, it is the responsibility of the public and private water suppliers to provide adequate water service to the individual customers, including areas identified as DUCs. The retail water suppliers are also responsible for addressing deficiencies in their production, treatment, and distribution systems, including seeking assistance from the State or neighboring agencies. The purpose of this study is not to assess the retail water systems' ability to provide water to their customers. Notably, nothing in the OCWD Act appears to limit OCWD's ability to assist public or private water suppliers within its jurisdiction, including those in disadvantaged communities. The wells owned by the mutual water companies that serve the DUCs are monitored as part of OCWD's Monitoring Program. The California Department of Public Health regulates the water quality of private mutual water companies. The monitoring, record-keeping, and water testing efforts OCWD is providing to these small producers are services that benefit their customers' ability to have water and, in turn, is part of the Basin management OCWD must perform to meet its charge. Because OCWD monitors the water quality of the wells and accounts for the water pumped by both large and small producers including those within the DUCs when making its water demand and water supply projections, and OCWD recharges the Basin with water for small and large producers to access regardless of where DUCs exist, OCWD is meeting the present and probable needs for potable water facilities and services of the DUCs to the extent that it is responsible for. Nonetheless, it is recommended that OCWD make available to some reasonable degree its extensive technical resources when requested by the mutual water companies within a DUC that need help to navigate funding opportunities for system improvements.

The Basin is estimated to hold, when full, roughly 66 million AF of water; however, OCWD limits over drafting the basin to 500,000 AF. When more than 500,000 AF is removed for longer than a temporary, emergency scenario, adverse effects can occur including seawater intrusion, land subsidence, increased pumping costs, and upwelling of amber colored water. As such, OCWD manages the Basin to keep it at 150,000 to 200,000 AF less than full, which is a little less than one-half of maximum draw down amount of 500,000 AF. Groundwater in the equivalent elevation range keeps seawater from intruding anymore inland then existing, minimizes risk for subsidence, pumps can continue to pump, and amber-colored water stays in the Deep Aquifer.

All pumpers are charged a flat Replenishment Assessment (RA) fee per AF produced. The OCWD Board of Directors issues a Basin Production Percentage (BPP) to pumpers each year that gives them an idea of how much of their total water demands can be met by groundwater. The BPP is currently 85 percent (increased from 77 percent in February 2023). Pumpers who exceed the BPP pay an additional fee called the Basin Equity Assessment (BEA). The combination of the RA, BPP, and BEA are the financial tools OCWD uses to manage the amount pumped from the Basin. However, in recent years a larger influence on pumping rates has been the presence of PFAS chemicals in the groundwater. Pumpers have turned off their wells until treatment systems are installed and, in the meantime, meet customer demands with imported water purchased from the local imported water wholesaler, Municipal Water District of Orange County (MWDOC).

EXHIBIT 1A: MSR STATEMENT OF DETERMINATIONS
for the Orange County Water District MSR

The primary constraint on OCWD's management of the Basin currently and in the future is water quality; specifically, adding treatment systems for PFAS chemicals on Groundwater Producer's wells that need them. The RA has been increased approximately 10 percent each year for the last 3 years to fund the wellhead treatment systems. OCWD has also applied for many grant opportunities to defray the cost to the District and its 19 Groundwater Producers. Another water quality constraint is seawater intrusion; OCWD is planning for a third seawater intrusion barrier. A third constraint for the District is the inability at this time is to capture all of the anticipated storm flows from the Santa Ana River. OCWD applied for a water rights permit for up to 505,000 AFY from the State Water Resources Control Board that would capture the majority of storm flows. The District was granted 362,000 AFY based on the existing facilities and is pursuing additional rights in order to reach 505,000 AFY.

Based on the information provided for this study, it is determined that the present and planned capacity of OCWD's facilities are sufficient; the public services it provides are adequate; and the aforementioned water quality constraints that exist are being addressed cooperatively with retail water suppliers within a reasonable response time to meet anticipated regulations so that OCWD can continue managing the Basin.

DETERMINATION 4: FINANCIAL ABILITY OF AGENCIES TO PROVIDE SERVICES.

The OCWD Fiscal Year 2023-2024 Budget was adopted by the Board of Directors on April 19, 2023, with a total budget of $279.2 million, which represents a decrease of 10.5 percent from the previous year. OCWD's audited budget reports demonstrate that the District is able to maintain a balanced budget, fully funded reserves, and fund capital improvement projects. The District is able to meet all its budgeted expenses and obligations and maintain an AAA credit rating with Fitch and Standard and Poors. Replenishment Assessments represent over 62% of total revenues in Fiscal Year 2023-2024 and can and do increase annually when necessary to help ensure revenues meet expense requirements. This flexibility along with its other revenue sources, budgeted reserves and great credit ratings put OCWD in a stable financial position to continue providing services to its customers.

DETERMINATION 5: STATUS OF, AND OPPORTUNITIES FOR, SHARED FACILITIES.

OCWD partners with many entities on projects that benefit and further the goals of the OCWD Act. This includes, but is not limited to, OC San, the 19 Groundwater Producers (13 Cities of Anaheim, Buena Park, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, La Palma, Newport Beach, Orange, Santa Ana Seal Beach, Tustin, and Westminster, and 6 water agencies, East Orange County Water District, Golden State Water Company, Irvine Ranch Water District, Mesa Water District, Serrano Water District, and Yorba Linda Water District), MWDOC, County of Los Angeles, Water Replenishment District of Southern California, The Metropolitan Water District of Southern California, the members of the Santa Ana Watershed Project Authority, and U.S. Army Corps of Engineers. The status of shared projects and facilities is well-documented to support the services provided by OCWD.

EXHIBIT 1A: MSR STATEMENT OF DETERMINATIONS
for the Orange County Water District Region MSR

Partnership opportunities are expected for the future, which may include but are not limited to, a second emergency connection to the South Orange County water agencies, addressing seawater intrusion at the “Sunset Gap” and/or “Bolsa Gap,” securing funding for the 19 Groundwater Producers to construct water treatment systems to address PFAS contamination in wells, and paying one-half of all PFAS treatment system operation and maintenance (O&M) costs. The opportunities for shared facilities continue to evolve at a sufficient pace for the purpose of supporting the services provided by OCWD.

DETERMINATION 6: ACCOUNTABILITY FOR COMMUNITY SERVICE NEEDS, INCLUDING GOVERNMENTAL STRUCTURE AND OPERATIONAL EFFICIENCIES.

OCWD is an independent special district that serves 19 large Groundwater Producers, many small producers, and roughly 2.44 million northern and central Orange County residents, which are represented by the 10-member Board of Directors.

OCWD is accountable to the service needs of its community through Board-approved policies that support the efficient and transparent operations of the agency. The Board of Directors conducts public meetings twice a month and the Board Secretary ensures compliance with the Brown Act. OCWD staff maintain a robust website that contains a wide range of up-to-date information about the District’s meetings, programs, and services, as well as social media, speaking engagements, and school-aged educational programs.

As of October 2023, members of the Board of Directors are paid $330.75 per meeting attended, up to 10 meetings per month. Board members are eligible for medical, dental, vision, and life insurance benefits, and participating in 401(a) and 457 plans.

The District has received many awards for its efforts in providing useful information, as well as promoting transparency and prudent fiscal practices; for example, in 2020, the Government Finance Officers Association awarded a Certificate of Achievement in Excellence for OCWD’s Comprehensive Annual Finance Report and One Planet awarded three gold medals for PR Campaign of the Year, Publicity Campaign of the Year, and Marketing Campaign of the Year. In addition, awards were received for the District’s virtual outreach efforts during the COVID-19 pandemic and an Outreach Recognition Award from the Association of California Water Agencies. OCWD demonstrates sufficient accountability to community service needs including its governmental structure and operations that do not hinder the services provided to its Service Area.

DETERMINATION 7: ANY OTHER MATTER RELATED TO EFFECTIVE OR EFFICIENT SERVICE DELIVERY, AS REQUIRED BY COMMISSION POLICY.

As part of its MSR and SOI update application to OC LAFCO, OCWD requested a feasibility study of consolidation with MWDOC to be included with the MSR. The findings of this analysis are provided in Chapter 5 of the MSR report.

SOI 23-06

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA
MAKING DETERMINATIONS AND RECONFIRMING THE SPHERES OF INFLUENCE FOR THE ORANGE COUNTY WATER DISTRICT

March 12, 2025

On motion of Commissioner _____________, duly seconded and carried, the following Resolution was adopted:

WHEREAS, California Government Code Section 56425 requires that a Local Agency Formation Commission of Orange County (OC LAFCO) adopt Spheres of Influence (SOI) for all agencies in its jurisdiction and to review, and update as necessary, those spheres every five years; and

WHEREAS, the SOI is the primary planning tool for OC LAFCO and defines the probable physical boundaries and service area of a local agency as determined by OC LAFCO; and

WHEREAS, proceedings for adoption, update and amendment of an SOI are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Section 56000 et seq. of the Government Code; and

WHEREAS, the California Government Code Section 56430 requires that in order to prepare and update SOIs, the Commission shall conduct Municipal Service Reviews (MSR) prior to or in conjunction with action to update or adopt an SOI; and

WHEREAS, OC LAFCO has previously reviewed and adopted SOIs for the Orange County Water District as required by Government Code Section 56425 and during the initial MSR/SOI review cycle 2006, second MSR/SOI review cycle 2008, and during the third MSR/SOI review cycle 2013; and

WHEREAS, on March 12, 2025, OC LAFCO adopted a new Statement of Determinations for the SOI review for the Orange County Water District as part of the fourth MSR/SOI review cycle; and

WHEREAS, the information and findings contained in the MSR and SOI reviews for the Orange County Water District are current and do not raise any significant service-related issues; and

WHEREAS, copies of the MSR and SOI report, SOI maps, and statement of determinations for the Orange County Water District identified in this Resolution have been reviewed by the Commission and are available for public review in the OC LAFCO offices and on the OC LAFCO website; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56427, set March 12, 2025, as the hearing date of the SOI review for OCWD identified in this Resolution and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56427 has prepared a report, including her recommendations thereon, and has provided a copy of this report to each affected agency entitled to a copy; and

WHEREAS, the review consists of the reconfirmation of the SOI for the Orange County Water District; and

WHEREAS, this Commission called for and held a public hearing on the SOI review for the Orange County Water District identified in this Resolution on March 12, 2025, and at the hearing this Commission received all oral and written comments, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to these reviews and the report of the Executive Officer; and

WHEREAS, this Commission considered the factors determined by the Commission to be relevant to this review, including but not limited to, factors specified in Government Code Sections 56425 and 56430; and

WHEREAS, pursuant to the California Environmental Quality Act, the SOI review and reconfirmation of the existing SOI for the Orange County Water District were determined to be exempt from CEQA under State CEQA Guidelines.

NOW, THEREFORE, the Local Agency Formation Commission of Orange County DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

<u>Section 1. Environmental Actions.</u>

a) The “Sphere of Influence Review for the Orange County Water District (SOI 23-06)” together with the written Statement of Determinations are determined by the Commission, as the lead agency, to be exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines §15262, Feasibility and Planning Studies.

b) The Commission directs the Executive Officer to file a Notice of Exemption, shown as "Exhibit 2," with the Orange County Clerk-Recorder as the lead agency under Section 15062.

Section 2. Determinations.

a) This review is assigned the following distinctive short-form designation: "Sphere of Influence Review for the Orange County Water District (SOI 23-06)."

b) The Executive Officer's staff report and recommendation to reconfirm the SOI, including the SOI map attached as "Exhibit 2B" hereto for the Orange County Water District identified in this Resolution dated March 12, 2025, are hereby approved.

c) The Commission has adopted the accompanying Statement of Determinations for the Orange County Water District identified in this Resolution, shown as "Exhibit 2A."

Section 3. Mail Copy of Resolution.

The Executive Officer shall mail a copy of this Resolution as provided in Government Code Section 56882.

Section 4. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the office of OC LAFCO. The custodian for these records is Orange County Local Agency Formation Commission, 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

AYES:

NOES:

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE)

I, Donald P. Wagner, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing Resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 12th day of March 2025.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March 2025.

DONALD P. WAGNER
Chair of the Local Agency Formation
Commission of Orange County

By: __________________________________
Donald P. Wagner

EXHIBIT: 2

NOTICE OF EXEMPTION

TO:		FROM: (Public Agency)	Local Agency Formation Commission of Orange County (Lead Agency)
☐	Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044		
☒	Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 400 W. Civic Center Drive, Sixth Floor Santa Ana, CA 92701	Address	2677 North Main Street Suite 1050 Santa Ana, CA 92705

1.	Project Title:	"Sphere of Influence Review for the Orange County Water District (SOI 23-06)"
2.	Project Applicant:	Local Agency Formation Commission of Orange County
3.	Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	The Sphere of Influence Review encompasses a service area that includes 520 square miles and the city boundaries of Anaheim, Buena Park, Costa Mesa, Cypress, Fountain Valley, Garden Grove, Huntington Beach, Irvine, La Palma, Los Alamitos, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster and Yorba Linda, portions of Fullerton, Orange, Newport Beach, and portions of unincorporated Orange County. Portions of the following cities are only within the SOI Aliso Viejo, Brea, Laguna Hills, Laguna Woods, and Lake Forest.
4.	(a) Project Location – Cities and Special Districts	The project area encompasses the cities of Anaheim, Buena Park, Costa Mesa, Cypress, Fountain Valley, Garden Grove, Huntington Beach, La Palma, Los Alamitos, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster and Yorba Linda, portions of unincorporated Orange County, and the service boundaries of East Orange Water District, Golden State Water Company, Irvine Ranch Water District, Mesa Water District, Serrano Water District, and Yorba Linda Water District. Portions of the following cities are only within the SOI Aliso Viejo, Brea, Laguna Hills, Laguna Woods, and Lake Forest.
	(b) Project Location – County	Orange
5.	Description of nature, purpose, and beneficiaries of Project:	Conduct a review of the sphere of influence and adopt the SOI Statement of Determinations for the Orange County Water District.
6.	Name of Public Agency approving project:	Local Agency Formation Commission of Orange County

7.	Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	Local Agency Formation Commission of Orange County
8.	Exempt status: (check one)	
☐	Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)
☐	Not a project.	
☐	Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b), (c))
☐	Categorical Exemption. State type and section number:	One single-family residence, or second dwelling unit in residential zone. Class 3 § 15303(a)
☐	Declared Emergency.	(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
☒	Statutory Exemption. State Code section number:	CEQA Guidelines §15262 (Feasibility and Planning Studies)
☐	Other. Explanation:	
9.	Reason why project was exempt:	The Sphere of Influence Reviews and Statement of Determinations are exempt from CEQA under CEQA Guidelines Section 15262: Feasibility and Planning Studies. A project involving only feasibility or planning studies for possible future actions which the agency, board or commission has not approved, adopted or funded does not require the preparation of an EIR or Negative Declaration.
10.	Lead Agency Contact Person:	Luis Tapia, Assistant Executive Officer
	Telephone:	(714) 640-5100
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form “A”) before filing.	
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes ☒ No ☐	
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes ☒ No ☐ If yes, the date of the public hearing was: March 12, 2025	

Signature:____________________________________ Date:________________ Title: Executive Officer
Name:

☒ Signed by Lead Agency ☐ Signed by Applicant

Date Received for Filing: ________________________

(Clerk Stamp Here)

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

EXHIBIT 2A:

SOI STATEMENT OF DETERMINATIONS
for the Orange County Water District

DETERMINATION 1: THE PRESENT AND PLANNED LAND USES IN THE AREA, INCLUDING AGRICULTURAL AND OPEN-SPACE LANDS.

The Sphere of Influence (SOI) of Orange County Water District (OCWD) is 569 square miles. The SOI contains 52 square miles of ocean, 125 square miles of unincorporated county, and 392 square miles of 27 incorporated cities. The OCWD Service Area is 430 square miles containing 35 square miles of unincorporated county, 52 square miles of ocean, and 343 square miles of 23 incorporated cities. Open space land uses make up the majority of the Service Area and the SOI. According to the latest data from California Department of Conservation's Farmland Mapping and Monitoring Program (dated 2018), there are approximately 3.2 square miles of Prime Farmland, 0.5 square mile of Farmland of Statewide Importance, 10.1 square miles of Grazing Land, and 2.5 square miles of Unique Farmland within the SOI for a total of 16.3 square miles, or 3 percent of the SOI area. The remaining area is mapped as Other Land (149 square miles), Water (4.5 square miles), and Urban Built-Up Land (351.2 square miles).

OCWD does not have land use authority and relies on the General Plans of the county and cities within its boundaries for accurate information on the present and planned land uses of the areas within the Service Area and SOI. In cooperation with the Center for Demographic Research at California State University, Fullerton, OCWD monitors land use changes within its Service Area. Because OCWD does not provide services outside of the Service Area, it is presumed the retail water suppliers that serve the SOI beyond the OCWD Service Area track land use changes and water demands within their respective service areas. OCWD is not requesting changes to its Service Area or SOI.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the SOI of both entities would be reviewed again.

DETERMINATION 2: THE PRESENT AND PROBABLE NEED FOR PUBLIC FACILITIES AND SERVICES IN THE AREA.

To continue its mission, OCWD has a present need for targeting areas of groundwater contamination and for adding PFAS treatment systems to affected wells. The District's fiscal year 2023-2024 budget and Capital Improvement Program (CIP), which is guided by the District's Replacement and Refurbishment (R&R) Model, lists 15 of the 19 total CIP projects that target these present needs. PFAS treatment will be a dominant component of the District's budget into the future. There is also present need to have facilities that capture more of the Santa Ana River base flows and storm flows once they pass Prado Dam. The District is working to expand river diversion efforts even further, to up to 505,000 AFY so that more of the wet year storm events can replenish the basin instead of flowing to the ocean. There is also a present need to address seawater intrusion occurring in the Sunset Gap in Huntington Beach.

OCWD facilities and services are limited to its Service Area. The District is not requesting changes to its services, Service Area, or sphere of influence as part of this review. If the need becomes apparent in the future to alter the OCWD Service Area and/or SOI boundary, then OCWD will have to undertake appropriate studies to assess the extent of water service demand involving the Basin and submit an application to OC LAFCO for approval of such changes.

EXHIBIT 2A:
SOI STATEMENT OF DETERMINATIONS
for the Orange County Water District

During the course of our review, a potential update to the OCWD Service Area was noted. As shown on Figure 2, there are three gaps or holes in the OCWD Service Area that are located within the City of Newport Beach. They total 31 acres and are fully within the SOI of OCWD and completely surrounded by OCWD Service Area. OCWD has indicated they have no reason not to include these areas in their official Service Area and recognizes that further research would need to be conducted prior to submitting an annexation application to OC LAFCO for review and processing.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the SOI of both entities would be reviewed again.

DETERMINATION 3: THE PRESENT CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES THAT THE AGENCY PROVIDES OR IS AUTHORIZED TO PROVIDE.

The capacity of OCWD's infrastructure to manage the basin sufficiently was demonstrated in WY 2022-2023 when rainfall exceed 158 percent of the long-term average. By the end of June 2022, more water was recharged than anticipated resulting in filling the Basin with an additional 69,000 AF, despite some losses to the ocean. Therefore, the District's capacity is commensurate with the population it currently serves. The District's planning efforts are demonstrated in the annual Comprehensive Financial Report, Annual Budget, and CIP by identifying the resources required to repair, replace, and expand facilities in order to meet its stated mission.

In terms of supply capacity, the District has many water rights and entitlements to water supplies. OCWD recharge basins have a maximum capacity potential of 300,000 AF per year, if all are starting from empty. Furthermore, the District has a water rights permit from the State Water Resources Control Board for diverting up to 362,000 AFY of Santa Ana River base flows and storm flows, with another 143,000 AFY held in abeyance. OCWD submitted a request in 2023 to the State Water Board containing a list of completed projects that would enable the District to divert an additional 49,980 AFY. If approved, this would increase the water right to 411,980 AFY, with 93,020 AFY still in abeyance. The District is also entitled to receive up to 130 million gallons per day from the Groundwater Replenishment System (GWRS), as well as entitlements to recycled water from OC San for the Green Acres Project and recycled water from the Water Replenishment District of Southern California for the Alamitos Barrier Project. OCWD will need to continue to budget for maintenance and expansions of capacity as infrastructure ages, regulations change, and collaboration opportunities arise.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the SOI of both entities would be reviewed again.

EXHIBIT 2A: SOI STATEMENT OF DETERMINATIONS
for the Orange County Water District

DETERMINATION 4: THE EXISTENCE OF ANY SOCIAL OR ECONOMIC COMMUNITIES OF INTEREST IN THE AREA, IF THE COMMISSION DETERMINES THAT THEY ARE RELEVANT TO THE AGENCY.

OCWD is charged with managing the water supply of the Orange County Groundwater Basin within its sphere of influence area of 569 square miles. The 19 Groundwater Producers supply the majority of water to the 2.44 million residents within the service area. A total of nine mutual water companies are also within the OCWD Service Area. A total of 11 Disadvantaged Unincorporated Communities (DUCs) were identified within the OCWD Service Area as part of this study. Land uses within the DUCs receive their potable water service from the Cities of Anaheim, Westminster, and Golden State Water Company, and four mutual water companies. Areas of unincorporated Orange County, the 11 DUCs, and the nine mutual water companies within the OCWD Service Area are considered communities of interest. OCWD is a wholesale entity and does not provide water directly to customers, so it is not responsible for the provision of retail water service to these communities of interest. Noting that OCWD has been an excellent partner to its retail agencies in the past, it is recommended that OCWD continue to do so by providing a reasonable level of technical assistance to the water providers of these communities of interest when requested.

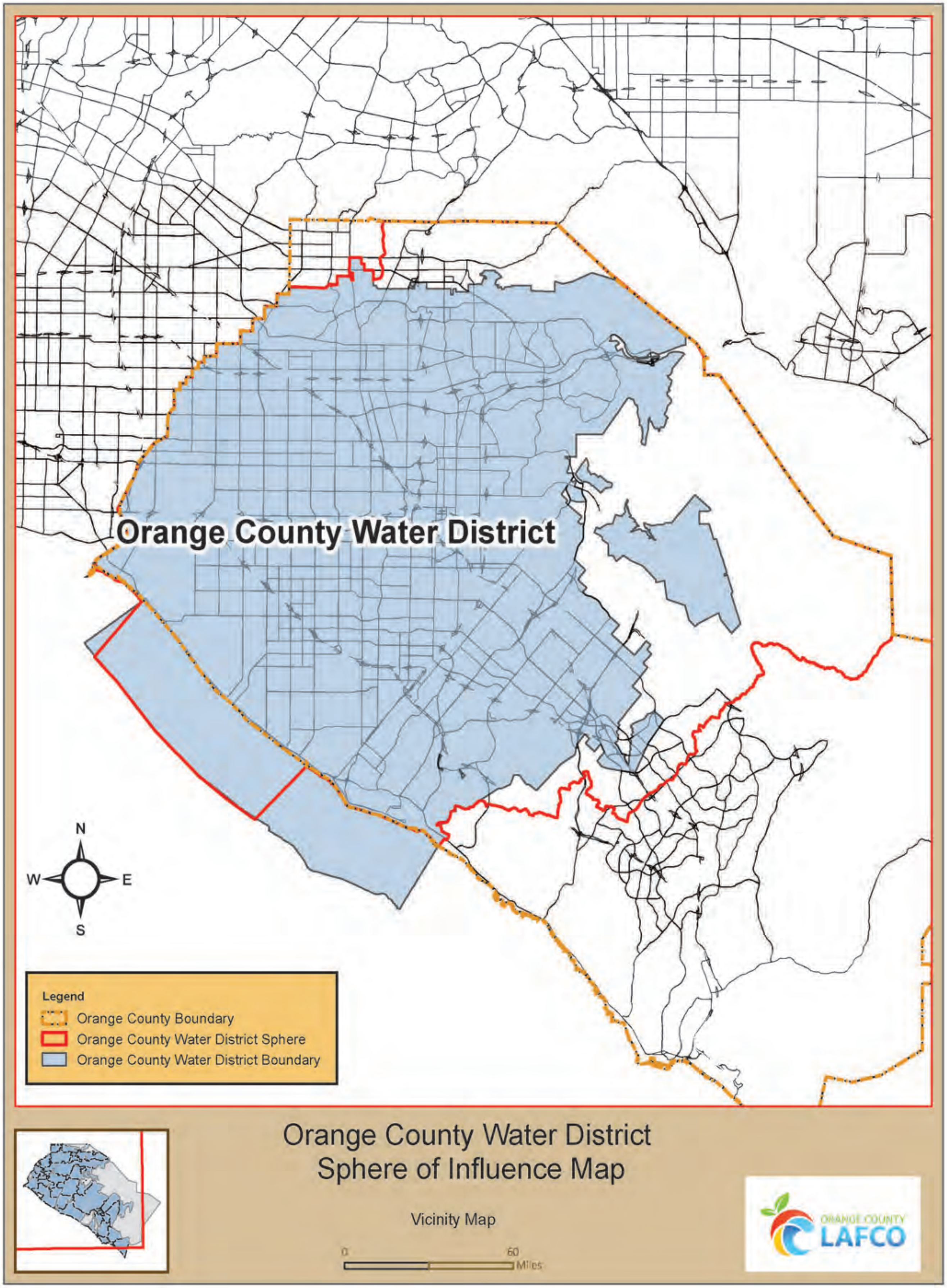
Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the communities of interest of both entities would be reviewed again.

DETERMINATION 5: IF A CITY OR SPECIAL DISTRICT PROVIDES PUBLIC FACILITIES OR SERVICES RELATED TO SEWERS, MUNICIPAL AND INDUSTRIAL WATER, OR STRUCTURAL FIRE PROTECTION, THE PRESENT AND PROBABLE NEED FOR THOSE FACILITIES AND SERVICES OF ANY DISADVANTAGED UNINCORPORATED COMMUNITIES WITHIN THE EXISTING SPHERE OF INFLUENCE.

A total of 11 DUCs are identified within Division 1 of the OCWD Service Area based on the current statewide median household income threshold and the census block boundaries. The retail water suppliers to the DUCs are responsible for the provision of water service and are responsible for the present and future potable water facilities to serve individual customers, not OCWD. The water demands of the water suppliers within the DUCs are accounted for in OCWD's planning projections of water demands. Furthermore, OCWD includes the wells that service the DUCs in its Monitoring Program. In light of pending changes to water quality regulations, it is recommended that OCWD continue to support retailers within its Service Area by providing a reasonable level of technical assistance to the water providers to the DUCs when requested. Additionally, OC LAFCO can engage or facilitate an effort with the State and the private mutual water companies of Orange County on a review of facilities, associated costs, and rates to find opportunities for efficiencies.

Pursuant to OCWD's application to OC LAFCO, a feasibility study of consolidation between OCWD and MWDOC is underway. If a subsequent application to OC LAFCO is filed in response to the feasibility study, then the present and probably need for facilities and services of any DUCs for both entities would be reviewed again.

**EXHIBIT
2B**


Orange County Water District
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ORANGE COUNTY
LAFCO

Luis Tapia

From: Evan Martin · [redacted]
Sent: Saturday, November 30, 2024 9:16 AM
To: Luis Tapia
Subject: OCWD - MWDOC Merger

Dear LAFCO staff,

I'm this case the merger makes sense for operational reasons, even with the negligible savings. If anything, it removes a distraction when dealing with the MWD in LA.

Although, when municipal services mergers are mentioned in OC, OCFA hits the top of the list for regrets.

As a Buena Park resident we still regret having to deal with the unreasonable costs and antiquated service model of the OCFA. Maybe someday our council will find the courage to do what Placentia did, and start a reasonable fire service.

Sincerely,

Evan Martin

Sent from my iPhone

December 21, 2024

Mr. Luis Tapia
Assistant Executive Officer
Local Agency Formation Commission

RE: OCWD MSR and SOI Reviews & Feasibility Study dated November 15, 2024

Mr Tapia,

I am in receipt of the above referenced document and am in a unique position to comment on it. My name is Jim Van Haun and I am the only person to have served in Senior Management for both OCWD & MWDOC. I was in Senior Management at MWDOC from 1978-1986 and at OCWD from 1986-1998. I served as the lead in many merger papers and discussions over that 20 year period. I was also the lead staff member for the Water Advisory Committee of Orange County when I lead the effort to form it in 1983 until 1998. I was also President of the Orange County Water Association in 1995. When I left OCWD in 1998, I served as Assistant General Manager. Having seen & often participated in numerous merger attempts over the past four decades, I believe now is the time to merge the two Districts into one with OCWD being the remaining agency. The reasons are numerous and compelling which I will outline in this letter.

I was hired in 1978 by MWDOC as their Public Affairs Director. At that time, the District's staff was comprised of a General Manager, Assistant General Manager, an Accounting Manager and three support staff. The District needed a Public Affairs Director because it was about to embark on its first project, the construction of the Allen/McCulloch Pipeline (AMP) to bring imported water into fast growing South Orange County. As part of the hiring process, the GM made it clear that after the construction of the pipeline, which would take a couple of years, my services many not be needed. In fact, he stated that MWDOC might revert to its original function as an agency performing a purchasing and accounting function, or may be dissolved into OCWD. That was in 1978. The P&A duties were the only function MWDOC carried out from its inception in 1951-1977. It had a part-time GM and accountant only. The water of course came from MWD where they also appointed MWD Directors to the MWD Board as the need arose which was not often.

After the construction of the AMP in the early 1980's, the MWDOC Board decided that it should not revert to a purchasing & accounting function but rather seek ways of expanding its scope. This lead to creating a water conservation & emergency preparedness function that carries forward to today. It also took it upon itself later to conduct regional planning studies on topics such as water supply reliability. A lot of this of course was already being done by MWD, OCWD and retail water agencies. This lead to an increasing concern among the cities and retail water districts that obtained water from MWDOC via MWD to insist that MWDOC institute "Core" and "Choice" programs and transitioning to fixed charges to recover costs for its core functions. This is the case today. These fixed charges come from the consumer ultimately and are composed of a charge on retail water meters and an annual groundwater replenishment charge which is charged to OCWD. Elimination of these two charges would save millions of dollars to the consumer annually.

Numerous examples of a single agency that is less confusing, more efficient and less costly is the San Diego County Water Authority. The leaders and water consumers of San Diego County know exactly who coordinates and serves the regional water needs of the county.

It is very obvious that there is a big difference in the size of OCWD & MWDOC. For example, the annual budget of OCWD is $190 million, whereas MWDOC's is $10 mission. OCWD's budget is 19 times that of MWDOC. Similarly, OCWD has 220 full-time employees where MWDOC has 33, many of which, are duplicative with OCWD's. In the past 25 years, MWDOC's employee count has roughly doubled despite little change in perceived or real responsibility.

Merging two or more water districts that ensures full and accountable representation is not without precedent. Numerous examples exist in Orange County alone. Rather recently, the Los Alisos Water District, Santiago County Water District and the Orange Park Acres Mutual Water Company along with their Boards merged into the Irvine Ranch Water District. The mergers resulted in more efficiency, cost savings and more accountability.

With the OCWD/MWDOC merger, it has been projected that about $3 million in annual savings can be achieved through combined labor & expenses. This can be done efficiently by following the example of the IRWD mergers. The employees of the merged agencies were offered similar positions in the remaining agency, offered a severance package or retirement.

Numerous and obvious advantages would be achieved with a merger of the two agencies; they include:

- Greater public accountability and more efficient governance will be achieved
- Confusion currently associated with the roles of the two agencies among the rate payers of Orange County and local, State and Federal officials will be eliminated.
- Streamlined, more effective and focused representation with MWD will be realized.
- Overlapping responsibilities and occasional friction among the agencies will be eliminated.
- More efficient and effective water resource management and planning will occur to better coordinate groundwater and imported water resources for the benefit of the entire County.
- A more streamlined and smaller Board of Directors will be realized, while still ensuring effective representation.
- Over a relatively short period of time, an estimated annual savings of $3 million will be realized through economies of scale and other operational efficiencies.
- MWDOC's current reserves can be used for staff and benefit costs and other liabilities associated with merging MWDOC into the successor agency, ensuring financial integrity and avoiding cross-subsidy.

As has been demonstrated for years, the idea of merging the two agencies is not new. It has been debated for a least 4 decades. In fact, the Orange County Grand Jury has recommended it at least twice. Unfortunately, to no avail. It would have been far easier to have merged the agencies decades ago. Some will say that the merger process is too difficult. But this has been achieved many times before.

Yes, there will be some items to be negotiated like the CAL PERS termination but CAL PERS has dealt with this many times before. Some things in life are difficult but are necessary and are beneficial for decades to come. This is one of those. Upon my departure from MWDOC in 1986, the Board presented me with a wooden plaque that reads, "The Board of Directors of MWDOC extends its sincere appreciation to Jim Van Haun for his years contributing his knowledge, effort and time to MWDOC and the water industry as a whole". So I write this not to diminish MWDOC, but to encourage the next positive chapter in water management in Orange County.

Please do not hesitate to contact me if I can be of any assistance in this merger.

Thank you,

Sincerely,

Jim Van Haun
[redacted]

ATTACHMENT 6

Luis Tapia

From: Steve Kerrigan < [redacted]
Sent: Sunday, December 1, 2024 5:23 PM
To: Luis Tapia
Subject: OCWD-MWDOC

Hi, I read Terri Sforza's article in the paper today and wanted to weigh in on the merger between these 2 water agencies.

I was on the Board of Directors of Santiago County Water District when LAFCO had us consolidate with IRWD. (I have been on the employee end of many mergers in the private sector-I know the qualms and worries.) There was initially some skepticism on the merger and fears of jobs, etc. Districts are not in the business of making employees comfortable. Our merger was the best thing for our customers by a mile.
I could not be happier with IRWD, their people, rates and continual system improvements.

I completely support the merger of OCWD and MWDOC. The argument about board representation and influence is just a power grab by the directors.

Customers just want good quality, reliable, inexpensive and consistent water. They don't care about representation, board sizes or hurt feelings.

I completely support the merger, it will be better for OC residents.

Thank you.

--
Steve Kerrigan
Silverado, CA

MWDOC

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18700 Ward Street
Fountain Valley, California 92708

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

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Director

Harvey F. De La Torre
General Manager

MEMBER AGENCIES

City of Brea
City of Buena Park
East Orange County Water District
El Toro Water District
Emerald Bay Service District
City of Fountain Valley
City of Garden Grove
Golden State Water Co.
City of Huntington Beach
Irvine Ranch Water District
Laguna Beach County Water District
City of La Habra
City of La Palma
Mesa Water District
Moulton Niguel Water District
City of Newport Beach
City of Orange
Orange County Water District
City of San Clemente
Santa Margarita Water District
City of Seal Beach
Serrano Water District
South Coast Water District
Trabuco Canyon Water District
City of Tustin
City of Westminster
Yorba Linda Water District

December 20, 2024

Carolyn Emery
Executive Officer
Orange County LAFCO
2677 North Main Street, Suite 1050
Santa Ana, CA 92705

SUBJECT: MWDOC's Comments on OCWD Municipal Service Review (MSR 23-06) and Sphere of Influence (SOI 23-06) Update, Public Review Draft

Dear Ms. Emery:

The Municipal Water District of Orange County (MWDOC) appreciates the opportunity to provide comments on the Municipal Service Review (MSR 23-06) and Sphere of Influence (SOI 23-06) Update for the Orange County Water District (OCWD), including a Feasibility Analysis of the Potential Consolidation of OCWD and MWDOC, Public Review Draft (Report)[1] dated November 15, 2024. After carefully reviewing the Report, particularly regarding the feasibility study of potential consolidation between MWDOC and OCWD, we have identified several aspects of the analysis that warrant your Commission's attention, analysis, and consideration.

Executive Summary

After a thorough analysis of the MSR and SOI Public Review Draft, MWDOC has identified significant concerns that call into question the feasibility and benefits of the proposed consolidation. Our detailed review reveals fundamental flaws in the financial analysis, serious governance concerns, and a lack of demonstrable water management benefits for Orange County. The projected cost savings appear to be significantly overstated, while transition costs and operational risks are understated or omitted entirely. Furthermore, the study fails to adequately consider less disruptive alternatives that could achieve many of the stated objectives through enhanced collaboration between the existing agencies.

This response outlines five critical themes that warrant careful consideration: (1) Flawed financial analysis, overstated benefits, and underestimated transition costs; (2) Significant governance and representation concerns that could diminish local control; (3) Absence of clear water management benefits for Orange County; (4) Potential unintended consequences that could harm ratepayers; and (5) Disproportionate impact on MWDOC and the non-basin agencies (South County cities and agencies, and the cities of Brea and La Habra).

[1] Public Review Draft, Municipal Service Review (MSR 22-06) and Sphere of Influence Review (SOI 23-06) for the Orange County Water District (https://oclafco.org/wp-content/uploads/2024/11/OCWD-Public-Review-Draft-MSR.pdf)

MWDOC firmly believes this Report relies on flawed data, superficial assumptions, and insufficient depth of research to support such a significant reorganization of Orange County's water management structure.

By design, **MWDOC and OCWD have different governing acts because each agency was established and authorized to serve separate and distinct functions within the water community**. As the Report highlights, consolidating the two agencies would be challenging, time-consuming, and costly. Further, the most recent MSR of each agency, MWDOC (MSR 20-09)[2] and OCWD (MSR 23-06),[3] identified no deficiencies or significant operational issues. Determination 3 of each MSR stated that each agency is adequately prepared to provide its member agencies with public services within its authorization. Thus, this consolidation feasibility study appears to be a solution in search of a problem.

OVERARCHING OBSERVATION & CLARIFICATION OF REPORT INACCURACIES

The Report ***does not*** provide compelling evidence that consolidation offers additional benefits to the county other than opportunities for further collaboration, which the Report notes are "qualitative and subjective." In addition, the comparative financial analysis included in the Report is overly simplistic and contains erroneous assumptions that appear to overstate the estimated cost savings from consolidation. The scope of the study is also very narrow. It lacks a "deep dive" into the full range of issues and consequences of potential consolidation that OCWD appeared to request in its October 4, 2022, application to LAFCO.[4]

Often, the study relies on claims and conclusions that are unsubstantiated by evidence and examples or based on erroneous data and assumptions. For instance, the Report incorrectly asserts that OCWD is the largest purchaser of imported water when, in fact, several South Orange County districts each have exceeded the amount purchased by OCWD over the past three years.[5] Moreover, OCWD has not purchased any water in the last two years[6] and has publicly stated that the agency has no plan to purchase imported water from MWDOC in the foreseeable future.

The study contains several critical methodological flaws that suggest support for a predetermined outcome rather than an objective analysis. It is heavily reliant upon the pro-consolidation 2022 Grand Jury report,[7] while giving minimal, if any, weight to similar Grand Jury analyses done in 1994 (before the incorporation of the cities of Laguna Woods, Rancho Santa Margarita, and Aliso Viejo) and 2013.[8] These reports concluded that MWDOC and OCWD have vastly different water management roles and responsibilities and should remain separate.

Claims about improved coordination and representation are unsupported by concrete evidence or specific examples in which lack of coordination has resulted in demonstrable adverse outcomes. Instead, the analysis relies heavily on anecdotal conclusions rather than quantitative data to support assertions about

[2] **Page 45.** Final Municipal Service Review (MSR 20-09) and Sphere of Influence Review (SOI 20-10) for the Municipal Water District of Orange County (https://oclafco.org/wp-content/uploads/2021/10/MWDOC_Final-MSR-20-09.pdf)
[3] **Page 48.** Public Review Draft, Municipal Service Review (MSR 22-06) and Sphere of Influence Review (SOI 23-06) for the Orange County Water District (https://oclafco.org/wp-content/uploads/2024/11/OCWD-Public-Review-Draft-MSR.pdf)
[4] **Page 11.** Orange County Local Agency Formation Commission: Active Applications (https://oclafco.org/how/active-applications/)
[5] **Page 21.** Public Review Draft, Municipal Service Review (MSR 22-06) and Sphere of Influence Review (SOI 23-06) for the Orange County Water District (https://oclafco.org/wp-content/uploads/2024/11/OCWD-Public-Review-Draft-MSR.pdf)
[6] Calendar years 2023 and 2024.
[7] "Orange County Water Sustainability: Who Cares?" Orange County Grand Jury 2012-2013 (https://www.ocgrandjury.org/sites/jury/files/2023-07/OCGJOC-Water061913.pdf)
[8] "Water in Orange County Needs One Voice." Orange County Grand Jury 2021-2022 (https://www.ocgrandjury.org/sites/jury/files/2023-06/2022-06-22_Water_in_Orange_County_Needs_One_Voice.pdf)

the potential benefits of consolidation. The Report lacks critical elements necessary for informed decision-making, such as a detailed implementation timeline or transition plan, sufficient analysis of service disruption risks during the transition, a complete analysis of governance and representation impacts, consideration of improved water resource benefits, adequate assessment of long-term liabilities, and stress testing of financial projections.

Finally, the Report fails to adequately explore less disruptive alternatives to a potential consolidation. Many of the cited benefits - including unified advocacy and operational efficiencies - could be achieved through improved collaboration and coordination while maintaining essential checks and balances in the current two-agency structure.

To be both thorough and concise, we have organized our comments into five key themes.

THEME 1: FLAWED FINANCIAL ANALYSIS AND OVERSTATED BENEFITS

The financial analysis contains several significant oversimplifications and questionable assumptions that raise questions regarding the projected savings of $3.98 to $6.39 million annually. The study bases projections on just three years of historical data. It fails to adequately reflect long-term trends or future needs while simultaneously overstating potential cost savings through unrealistic assumptions about operational efficiencies and staff reductions.

The Report significantly overestimates potential cost savings from these suggested staff reductions.[9] It is erroneous to simply assume positions with similar titles can be eliminated without accounting for specialized duties and expertise required for groundwater versus imported water management. For example, the Director of Engineering for MWDOC and OCWD have functions and responsibilities that are dramatically different from each other. Eliminating either position would result in a potential loss of specialized expertise critical to operations, cause operational impacts of these reductions on service delivery, and add integration challenges of merging different operational systems and procedures. Simply eliminating positions with the same title does not reflect the current workload for those positions. Work would still need to be done, and staff resources would be required because the Successor Agency would have broader responsibilities and an increased scope and business systems to maintain. As such, and without a detailed workload analysis, the number of positions the Report assumes could be eliminated under a consolidation appears to be overstated.

The administrative expense reductions are inflated through unrealistic assumptions about operational efficiencies and proportionate reductions in administrative costs based upon the overstated staff reductions. For example, building and maintenance expenses, which the analysis shows are reduced with consolidation, ignore the fact that all building facilities would still be utilized and would continue to need maintenance. The Report also includes reductions in membership and sponsorship costs, legal and professional service fees, training, and other administrative costs that are proportionately based on the overstated reductions in staff; this is not a proper analysis of determining cost savings.

[9] **Page 117, Table 14.** Public Review Draft, Municipal Service Review (MSR 22-06) and Sphere of Influence Review (SOI 23-06) for the Orange County Water District (https://oclafco.org/wp-content/uploads/2024/11/OCWD-Public-Review-Draft-MSR.pdf)

The Report analysis assumes that the Successor Agency will also achieve cost savings by reducing board seats from 17 to 10 members.[10] The assumption of a 10-member Board is arbitrary and is not supported in the Report by analysis or recommendations regarding a proposed governance structure or considerations relating to balanced Board representation. In fact, under current statute, for the consolidated agency to be a Metropolitan Water District of Southern California (Metropolitan) member agency, it would need to be formed under MWDOC's principal act, the Municipal Water District Act of 1911, versus OCWD's groundwater management act. The Municipal Water District Act only allows for 5, 7, or 11 members, not 10 members, as assumed in the Report.

Another significant error in the Report appears to be the estimated $2.41 million savings in annual retirement costs shown in Table 16.[11] These savings are based upon converting all OCWD's 226 employees from their existing 401(k) defined contribution program to MWDOC's existing CalPERS program and is the only retirement scenario analyzed in the Report that demonstrated significant net savings. However, the inclusion of the $2.41 million annual savings as a benefit of consolidation is specious and should be removed from the Report. Specifically, as previously noted, this scenario calls for OCWD's employees to convert to CalPERS while MWDOC's employees remain in CalPERS. The study fails to disclose that the vast majority of these **savings could be achieved today** by OCWD independently converting its employees to CalPERS **without consolidation.** Although there may be some minor savings from the disputed staff reductions through consolidation, this would be an inconsequentially small portion of the $2.41 million annual savings, making it inappropriate to include this amount in the Report as a benefit of consolidation.

Transition costs, which are a financial impact of consolidation and not a benefit, are acknowledged but unquantified, particularly potential CalPERS termination payment of $10.4 million to $26 million (if OCWD's retirement plan option was selected), legal and consulting costs for contract modifications, technology and systems integration expenses, and staff training and reorganization costs. These expenditures would also diminish the overall projected savings listed in the Report.

Lastly, the Report fails to analyze potential impacts on MWDOC's existing revenue structure, member agency relationships, and revenue-generating capabilities; instead, the Report simply combines current revenues without examining how consolidation might affect them. This requires further examination of the recent rate increase trends of both agencies.

The actual cost savings would be far less than projected in the Report and insufficient to justify such a significant reorganization, particularly given the lack of workload analysis to support estimated staff reductions, the significantly overstated retirement plan savings and the unquantified transition costs.

THEME 2: GOVERNANCE AND REPRESENTATION CONCERNS

The Report's treatment of governance challenges reveals critical oversights and a lack of analysis that presents serious legal and practical concerns that cannot be overlooked. For example, current statutes do not allow the Successor Agency to be formed under the OCWD Act and be a Metropolitan member agency. If the Successor Agency was formed under the Municipal Water District Act, it could be a Metropolitan member agency but would need to have OCWD's authorities incorporated, requiring legislation.

[10] **Page 118.** Public Review Draft, Municipal Service Review (MSR 22-06) and Sphere of Influence Review (SOI 23-06) for the Orange County Water District (https://oclafco.org/wp-content/uploads/2024/11/OCWD-Public-Review-Draft-MSR.pdf)
[11] **Page 125, Table 16.** Public Review Draft, Municipal Service Review (MSR 22-06) and Sphere of Influence Review (SOI 23-06) for the Orange County Water District (https://oclafco.org/wp-content/uploads/2024/11/OCWD-Public-Review-Draft-MSR.pdf)

Any new Successor Agency would need to have equal populous divisions, whether formed under the Municipal Water District Act or otherwise. The Voting Rights Act of 1965 and related legal principles require that voting districts, including divisions within a Municipal Water District, comply with the principle of equal population to ensure fair representation. OCWD was formed as a groundwater management agency in 1933, and its Board is an artifact hybrid of elected and appointed Board members that do not represent equal populous divisions. For example, OCWD's Fullerton division represents 139,250 people, while its Anaheim division represents 340,512 people. To ensure fair and equitable representation throughout the County, the Successor Agency would need to implement balanced Board divisions. The Report ignores this issue and how it would be resolved.

The Report also does not address how the Successor Agency would vote on various matters, particularly those matters relating to groundwater basin issues, those pertaining to imported water and issues, and items relating to setting the consolidated agency's water rates and charges. **A bifurcated voting system creates an unwieldy and potentially unworkable governance model** where certain Board members would be limited to voting on specific matters. Moreover, disparate voting rights, where some Board members would be disallowed from voting on certain matters, is **completely contrary to the intent of a "unified" countywide Successor Agency**. Finally, the analysis does not address how the Successor Agency would ensure balanced representation among basin and non-basin agencies (i.e., South County cities and agencies, Brea, and La Habra) while protecting their unique needs and interests.

On legislative and policy matters, coordination can currently occur without consolidation. MWDOC and OCWD presently have regularly scheduled joint planning meetings and numerous opportunities exist to meet with, host, and provide briefing materials to legislators and members of Congress. In the joint planning meetings, the agencies have ample opportunities to have "…collaborative, deliberative and action-oriented…" dialogue as recommended in the Report and to jointly formulate positions and legislative requests.

Finally, the Report incorrectly implies that there is "competition" for state and federal funding among MWDOC and OCWD. No examples were given of such competition, nor were there any instances where MWDOC or OCWD may have displaced each other for funding. Moreover, coordination in seeking state and federal funding can be achieved without consolidation and such coordination among MWDOC, OCWD, and their collective member agencies has occurred successfully in the past.

THEME 3: NO CLEAR WATER MANAGEMENT BENEFITS

The study does not demonstrate any meaningful improvements to water resource management in Orange County. In response to this Report, OCWD's Board has adopted a formal position to preserve the "...Groundwater Producers sole access to the Orange County Groundwater Basin..." under a consolidation with MWDOC.[12] As a result, south Orange County, along with the Cities of Brea and La Habra, would realize no emergency supply reliability, drought mitigation or other water resource management benefits from the Orange County groundwater basin. In fact, when consolidation was analyzed in 2006, **OCWD itself concluded that water management would not be improved with consolidation** because the Successor Agency envisioned by OCWD would not allow access to the groundwater basin for south Orange County.

[12] Adopted by the OCWD Board at their December 18 Board Meeting in discussion of their LAFCO comment letter and principles.

Absent access to the groundwater basin or any beneficial utilization thereof, there is no discernible water resource benefit to south Orange County agencies or the cities of La Habra and Brea of being incorporated into a single Successor Agency with potentially diminished Board representation and a reduced focus on the imported water supplies. The Report fails to address these issues and does not identify higher levels of water supply reliability, drought protection, or other water resource or management benefits for the County as a result of consolidation.

THEME 4: UNINTENDED DETRIMENTAL CONSEQUENCES

Several potential negative consequences require further analysis or clarification. The Cortese Knox Hertzberg Act mandates that existing debt and expenditures remain with current constituents in any consolidation, and OCWD has adopted a position that it would not spread its existing debt to the non-basin portions of the county.[13] Still, the study does not acknowledge or address this issue or how other future costs of a consolidated agency would be distributed to agencies that receive no direct benefit from the groundwater basin (South County cities and agencies, Brea, and La Habra).

The Report also does not address how the Successor Agency's overall operating expenses would be allocated on a county-wide basis or the potential impacts on rates and charges. Similarly, the Report does not address the potential implications of OPEB-related liabilities, other outstanding legal obligations, and their associated future costs, nor does it evaluate the impact of these costs on the existing customers of OCWD and MWDOC in the event of consolidation.

There are also potential detrimental consequences to the County's representation at Metropolitan that were neither analyzed nor disclosed in the Report. Specifically, a successor countywide water agency consolidating OCWD and MWDOC would need to incorporate the territory of Fullerton, Santa Ana, and Anaheim, per the expanded SOI. In doing so, under the current Metropolitan Act, the new consolidated agency could lose seats on the Metropolitan Board. This is because the Metropolitan Act provides one director for each member agency and one additional director for each 5% of the Assessed Valuation (AV) in the Metropolitan service area.

Specifically, in 2024, MWDOC has 16.76% of the AV and has four Metropolitan directors. Fullerton (0.68% of AV), Santa Ana (0.88% of AV), and Anaheim (1.55% of AV) each have one Metropolitan director. Under consolidation, the total AV of the consolidated Successor Agency would be 19.87% of Metropolitan's AV. This would result in only four directors for the Successor Agency with **Orange County risking the loss of three seats on the Metropolitan Board** and the three cities likely to lose both their director representation and sovereignty at Metropolitan.

THEME 5: DISPROPORTIONATE IMPACT ON MWDOC AND NON-BASIN AGENCIES

The analysis in the Report advances a course that would appear to require MWDOC to bear a disproportionate share of the transitional impacts of consolidation. MWDOC would shoulder most of the transition risks and costs while OCWD maintains its revenue base and gains expanded capabilities. The consolidation threatens MWDOC's established and effective Metropolitan Water District representation without clear benefits to offset this loss. The Report fails to justify dismantling MWDOC's successful

[13] Adopted by the OCWD Board at their December 18 Board Meeting in discussion of their LAFCO comment letter and principles.

operational model and established member agency relationships. MWDOC would take on additional operational complexities and responsibilities without apparent corresponding efficiencies or financial benefits.

As previously noted, without access to the groundwater basin, there is no discernable benefit to South Orange County and the cities of Brea and La Habra by being incorporated into a larger Successor Agency with more divergent interests. Non-basin agencies would experience a dilution in representation on the Successor Agency's board and as previously noted, could have reduced Board representation at Metropolitan. Representation at Metropolitan is particularly important to South County cities and agencies, which receive the vast majority their water supplies through Metropolitan's imported water system.

Conclusion

While MWDOC supports exploring opportunities for improved efficiency in water management, this feasibility study does not provide evidence that consolidation would benefit Orange County water suppliers or their customers. A Successor Agency with a bifurcated voting system creates an inefficient governance model without balanced representation among basin and non-basin agencies and the potential for reduced representation for Orange County on the Metropolitan Board.

Importantly, the Report fails to consider consolidation alternatives adequately. Many of the cited benefits - including unified regional, state, and federal advocacy, coordinated grant applications, and operational efficiencies - could be achieved through improved collaboration between the agencies while maintaining the current structure's essential checks and balances.

We recommend that OCWD and MWDOC focus on opportunities to improve service efficiencies and coordination activities for the benefit of all retail water agencies in Orange County. We believe that such an approach will provide far more significant benefits without the risks, governance issues, and consolidation costs. Some examples of these opportunities, including activities that are currently being undertaken, are as follows:

- Increase Coordination and Collaboration on Metropolitan Water District Issues:
    - Coordinated positions on key Metropolitan issues.
    - Joint advocacy for Orange County's interests.
    - Shared strategic planning for imported water management.
    - Inclusive of MWDOC, OCWD, and the Metropolitan Directors representing OCWD's service area (Fullerton, Santa Ana, and Anaheim).
- Enhanced Coordination on Pursuing State and Federal Funding:
    - Joint application development for major funding opportunities.
    - Shared resources for grant writing, administration, and advocacy.
    - Coordinated joint regional project planning and grant funding coordination with MWDOC's and OCWD's member agencies.
- Joint Legislative Advocacy:
    - Combined legislative advocacy efforts and resources where appropriate.
    - Coordinated response to all material regulatory proposals or changes.
    - Joint development of countywide water policy principles and priorities.
- Identify and Pursue Expanded Partnership Opportunities:
    - Joint public education and outreach programs.

  - Shared emergency response planning.
  - Combined water resources and water use efficiency programs.
- Strengthened Cooperative Opportunities:
  - Shared staffing, technical, and other consultant resources, where appropriate.
  - Coordinated long-term water supply planning on a collaborative countywide basis.

The most recent Municipal Service Reviews (MSR) of each agency, MWDOC (20-09)[14] and OCWD (MSR 23-06),[15] identified no deficiencies or significant operational issues. Determination 3 of each MSR stated that each agency is adequately prepared to provide its member agencies with public services within its authorization. **The consolidation feasibility study appears to be a solution in search of a problem. As such, the MWDOC Board does not see merit or value resulting from consolidation.**

MWDOC remains committed to working constructively with OCWD and all regional partners to ensure reliable water supplies for Orange County and is open to working with OCWD on the collaborative approaches outlined above to further enhance our services. We appreciate your consideration of these comments as you prepare the Final Report and welcome the opportunity to discuss them further.

Sincerely,

Harvey F. De La Torre
General Manager
Municipal Water District of Orange County

cc: LAFCO Commission
MWDOC Board of Directors
OCWD Board of Directors

[14] **Page 45.** Final Municipal Service Review (MSR 20-09) and Sphere of Influence Review (SOI 20-10) for the Municipal Water District of Orange County (https://oclafco.org/wp-content/uploads/2021/10/MWDOC_Final-MSR-20-09.pdf)
[15] **Page 48.** Public Review Draft, Municipal Service Review (MSR 22-06) and Sphere of Influence Review (SOI 23-06) for the Orange County Water District (https://oclafco.org/wp-content/uploads/2024/11/OCWD-Public-Review-Draft-MSR.pdf)

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ATTACHMENT 9

ocwd.com
(714) 378-3200

December 19, 2024

Carolyn Emery
Local Agency Formation Commission of Orange County
2677 N. Main Street, Suite 1050
Santa Ana, CA 92705

SUBJECT: Orange County Water District Comments on the Draft Municipal Service Review, Sphere of Influence Update and Consolidation Study

Dear Ms. Emery,

Orange County Water District (OCWD or District) thanks the Local Agency Formation Commission of Orange County (LAFCO) for studying the feasibility of consolidating the District with the Municipal Water District of Orange County (MWDOC). This request followed the Orange County Grand Jury's June 2022 report recommending the consolidation of our two agencies.

A single agency might be able to provide the services offered by OCWD and MWDOC more efficiently. The draft LAFCO report confirms that no "fatal flaws" or "insurmountable issues" prevent the consolidation of the two agencies. OCWD suggests that ideally, one agency should manage the county's wholesale water needs.

Consolidation of our two agencies has been periodically discussed and debated within the Orange County water community. These discussions arise because consolidation may offer numerous benefits, including better coordination in providing imported water and local groundwater, greater accountability and less public confusion, cost savings, avoidance of conflicts, improved lobbying efforts with state and local officials, and a unified voice for Orange County water issues.

Past consolidation discussions have faltered for various reasons including misinformation, varying opinions on the benefits, lack of understanding of the mechanics of consolidation, and varying estimates of cost savings. OCWD specifically requested that LAFCO study this issue, so that your agency can provide an objective and neutral analysis to bring clarity to these matters, ultimately benefiting the water community.

Other options to enhance coordination and efficiency between OCWD and MWDOC have been proposed, including alternatives previously suggested by MWDOC for LAFCO to study. However, these alternatives do not deliver the full range of benefits and cost savings that a complete consolidation of OCWD and MWDOC could achieve.

Board of Directors

Valerie Amezcua • Denis R. Bilodeau, P.E., 1st Vice President • Cathy Green, President • Natalie Meeks • Dina L. Nguyen, ESQ. • Stephen R. Sheldon • Van Tran, ESQ., 2nd Vice President • Erik K. Weigand • Bruce Whitaker • Roger C. Yoh, P.E.

Specific OCWD comments on the draft LAFCO study are listed below:

- Page 7 – The phrase at the bottom of the second paragraph "and to calculate the fee that each groundwater producer pays for each AF pumped (Replenishment Assessment)" should be deleted.
- Page 7 -The assertion that the "OCWD Act limits the District from providing water outside of the Basin unless it is for the purpose of managing the Basin (OCWD Act, Section 2)," is not fully accurate and should be deleted. OCWD is specifically authorized by Section 2.6.g of the OCWD Act to "buy and sell water at such rates as shall be determined by the board of directors." While such sales must be for the "common benefit of the district," section 2 of the OCWD Act does not limit such sales to circumstances where sales are solely for the purpose of "managing the Basin." The corresponding assertion on page 143 of the study should also be deleted for the same reasons.
- Page 7- The assertion that "the Basin is not adjudicated so there is no court judgment that stipulates how water rights are allocated and how management should occur," is not completely accurate. There are cases that touch upon the water rights of OCWD and Producers within the Basin as well as the District's authority to manage the Basin.[1] To be more accurate, this assertion should be revised to read: "The Basin has not been comprehensively adjudicated by a court. However, the OCWD Act has long served as a form of "legislative physical solution" that authorizes OCWD to manage groundwater production based upon desired Basin conditions. Producers are generally able to pump up to their total water demand within OCWD, but pumping in excess of the Basin Production Percentage can trigger an additional assessment or surcharge."
- Page 52 - Charts 6 and 7 – Including total basin pumping in the pie charts seems unusual to OCWD.
- Page 68 – The paragraph about OCWD and MWDOC sharing the same office property is generally correct, however, to avoid potential confusion, the term "Shared" should be removed from the term "Shared Office Facilities". The Agreement between OCWD and MWDOC refers specifically to "Office Facilities."

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1 OCWD notes that numerous appellate courts have ruled upon water rights issues, and how management should occur, within the Basin, as recently as this October, *see Irvine Ranch Water Dist. v. Orange Cty. Water Dist.*, No. B329089, 2024 Cal. App. Unpub. LEXIS 6333 (Oct. 7, 2024) ("IRWD v. OCWD"). *IRWD v. OCWD* does touch upon water rights, *see id.* at *14-15, of two Producers within the Basin—IRWD and Golden State Water Company—though the decision does not adjudicate any specific water rights. On the other hand, the *IRWD v. OCWD* decision definitely addresses how OCWD manages the Basin and its authority to do so per the OCWD Act. (*See id.* at *3-*6; *see also Orange Cty. Water Dist. v. Riverside, 173 Cal. App. 2d 137 (1959)* [OCWD can assert water rights claims on behalf of itself and on behalf of Producers within Orange County];*Orange Cty. Water Dist. v. Farnsworth, 138 Cal. App. 2d 518 (1956)* [approving imposition by OCWD of replenishment assessments per OCWD Act].)

Additionally, the Consolidation Study should be consistent in describing the ownership of the Office Facilities.

- Table 13 - We suggest the addition of a row at the bottom of table 13 summarizing MWDOC's expenses without "Water Expenses" (items 87-90). MWDOC acts as a middleman for the purchase of imported water by the cities and water districts in its service territory. Including "Water Expenses" greatly inflates and misrepresents the size of MWDOC's operations.
- Table 14 - Average Annual Salary for Administrative Assistant should be updated to $61,144.
- Finding Number 12 states that a consolidation "may" offer opportunities for unified representation of Orange County water suppliers at the local, state, and federal levels. By definition, a consolidation of OCWD and MWDOC would result in unified representation, as there would be only one Orange County water supplier, as highlighted in the 2022 Grand Jury report. Additionally, while OCWD concurs with the comment that collaboration between the agencies could potentially eliminate redundancies and improve efficiencies for the benefit of ratepayers, it should be noted that such collaboration would not achieve the comprehensive benefits and savings provided by a full consolidation.
- Page 140 – MWDOC as Successor Entity. This section of the study appears to suggest that state legislation is not necessary if MWDOC was the successor agency of a consolidation, and that OC LAFCO could approve consolidation under the Municipal Water District Act. OCWD disagrees with this assessment and requests LAFCO's special counsel to further explain the legal basis for this suggestion in the next draft of the study. Specifically, how do MWDOC's existing statutory powers include all of OCWD's powers to manage the groundwater basin per the OCWD Act? Further explanation is needed because it has long been OCWD's position and legal opinion—as reflected in former General Counsel Joel Kuperberg's persuasive 2013 legal memorandum, which is cited on page 138 and footnote 32 of the study—that the Municipal Water District Act does not contain sufficient existing legal authority to permit exercise of all existing powers of OCWD by a successor agency post-consolidation.[2] OCWD exercises unique

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[2] Mr. Kuperberg opined in his memorandum of September 11, 2013, in pertinent part, on page 4: "*By contrast* [to the OCWD Act], *the Muni District Act provides authority for some, but not all, of the services currently provided by OCWD; for example, the Muni District Act does not authorize the levy of replenishment assessments (except in the case of court-ordered water make-up programs, per Water Code Section 71682, et seq.) or either the establishment of an annual basin production percentage or the levy of basin equity assessments. In other words, the Muni District Act does not provide authority for a consolidated agency to collect OCWD's current principal source of revenue, or provide the legal basis for managing the Orange County groundwater basin and its resource. And, because the Muni District Act requires that all members of the governing board be directly elected from divisions (see Water Code Section 71500, et seq.), it is questionable whether the Muni District Act could serve as the principal act for a consolidated agency where three members are appointed by MET member agency cities.*"

authorities under the OCWD Act with regard to management of the Basin utilizing economic incentives, disincentives and penalties granted to the District per the OCWD Act to control the amount of water pumped each year. None of these authorities, which are core to the finance and function of OCWD, can be found in the Municipal Water District Act—no matter how "municipal" in character it might be.[3] OCWD is not aware of any other special district, whether organized as a 1911 Act District or otherwise, that exercises all of the authorities that OCWD uses to manage the Basin within OCWD, and indeed the Sustainable Groundwater Management Act (SGMA) was passed in 2014 in part because of lingering questions about the existing legal authority of special districts, such as 1911 Act Districts (which do not have police power), to manage groundwater outside of specific state legislative authorizations. Moreover, the study should explain how the three appointed members of the OCWD Board from the Cities of Anaheim, Santa Ana and Fullerton, whose ***appointment*** to the OCWD Board of Directors is specifically directed by the OCWD Act, could operate under the Municipal Water District Act which requires that all of its directors be elected, and that the Board, as defined in the OCWD Act, is the entity responsible for all exercise of OCWD's powers. See OCWD Act § 3.

- Page 108 – The report states that the 2013 Grand Jury report recommended keeping OCWD and MWDOC separate. OCWD questions whether this is entirely accurate. Thee 2013 report was initiated "to inform the public about the sustainability of their water supply and what needs to be done in the future to keep the tap running." While the Grand Jury recommended that OCWD and MWDOC continue their separate roles, it did not specifically examine the merits of consolidation.
- Page 126, Table 17 – OCWD requests clarification on whether the discount rates shown in the table have been reversed.

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3. The Citations to powers under the Municipal Water District Act in the study are seemingly inapposite, and the cases cited therein do not address the "implied" power of a municipal water district to manage groundwater, much less to do so using the unique tools that were granted by the Legislature to OCWD, such as the BPP, replenishment assessments, basin equity assessments, and production limitations/surcharges. The cases cited simply stand for the proposition that municipal water districts exercise some quasi-municipal powers granted by the Legislature, much as OCWD does. However, those powers are limited to the powers actually granted by the Legislature. *(See People ex rel. City of Downey v. Downey County Water Dist.* (1962) 202 Cal.App.2d 786, 795 ["The powers of special districts are special purpose powers limited solely to those conferred by the legislature in the line of the object of their creation."].) Accordingly, "districts, being public agencies created by statute, can exercise only those powers 'which are conferred on them by the act under which they are incorporated, or such as are necessarily incidental to the exercise of their corporate rights, the performance of their corporate duties, and the accomplishment of the purposes for which they are created.'"*(Palmer v. West Kern County Water Dist.* (1961) 193 Cal.App.2d 41, 45 [quoting *Biggart v. Lewis* (1920) 183 Cal. 660, 666].)

- Page 118 – OCWD does not necessarily concur with the immediate establishment of a ten-member Board of Directors for the successor agency. OCWD believes other options are available to initially combine both boards, with a possible gradual reduction to an appropriate number over time.

With this letter OCWD has also developed key consolidation principles to counter and clarify any misinformation in the water community which might exist. The principles include:

- Preserving the Groundwater Producers sole access to the Orange County Groundwater Basin within OCWD.
- Maintaining the seven directors Orange County has at the Metropolitan Water District of Southern California (MWD).
- Ensuring <u>all</u> services currently provided by MWDOC and OCWD would be provided by the new organization.
- Initially combining the two staffs and boards and reducing staffing and board levels via attrition and retirements at a level to be determined.
- Existing OCWD debt would be repaid by the Groundwater Producers and not shared with the South Orange County agencies

OCWD again thanks LAFCO for preparing the consolidation study. District staff and legal counsel are available to discuss our comments to assist in finalizing the LAFCO study.

Sincerely

John C. Kennedy
General Manager

ATTACHMENT 10

BOARD OF DIRECTORS

BETTY H. OLSON, PH.D
LAURA FREESE
FRANK URY
SAUNDRA F. JACOBS
MARGARET NOVAK

ROBERT S. GRANTHAM
GENERAL MANAGER

Santa Margarita Water District

December 27, 2024

Ms. Carolyn Emery
Executive Officer
Orange County Local Agency Formation Commission
2677 N. Main Street, Suite 1050
Santa Ana, CA 92705

SUBJECT: Response to Public Review Draft -Municipal Services Review and Sphere of Influence Update for the Orange County Water District. Including a Feasibility Analysis of the Potential Consolidation of Orange County Water District and Municipal Water District of Orange County

Dear Ms. Emery:

Santa Margarita Water District (SMWD) is pleased to submit the following response to the Orange County Local Agency Formation Commission (LAFCO) Municipal Services Review (MSR) for the Orange County Water District (OCWD) and review of a potential OCWD and Municipal Water District of Orange County (MWDOC) consolidation.

SMWD provides drinking water, recycled water, and wastewater service to 210,000 residents in south Orange County, which will exceed 250,000 within the next decade. With limited groundwater, the District is heavily reliant upon imported water supplied through MWDOC from the Metropolitan Water District of Southern California (MET). To limit this reliance, SMWD reclaims the majority of its wastewater to meet irrigation demands and is in process of implementing its planned indirect potable reuse program and restoring the San Juan Capistrano groundwater plant to meet local drinking water needs. Even with these extraordinary local efforts, SMWD will continue to be a large user of imported water from MET.

The Grand Jury Report released on June 14, 2024, focused on three areas – potential consolidation of OCWD and MWDOC; SMWD's acquisition of the City of San Juan Capistrano water and wastewater system; and challenges occurring with the South Orange County Wastewater Authority. The District's thoughts regarding the potential consolidation of OCWD and MWDOC are captured within the joint responses by the South Orange County Water Agencies. Additionally, we are pleased to see the more collaborative approach inspired by the new general managers of OCWD and MWDOC and are encouraged by their shared leadership.

As the District expressed in our response to the Grand Jury Report, several of the findings were broad and without sound basis. Most importantly to SMWD, the assertions that the District received significant opposition to rate increases and that the District had not adequately conducted due diligence and outreach are both false. The District received just 26 protest letters out of more than 70,000 accounts. Previous City leadership did not prioritize the maintenance and improvement of its failing infrastructure nor adequately raise rates to fund these needs. Prior to the annexation, SMWD invested several hundred thousand dollars in due diligence and outreach efforts, which was exponentially higher than the other interested agencies. Moreover, by the end of the current fiscal year, the District will have invested nearly $20 million in upgrading the City's system. These efforts include restoring the groundwater treatment capacity and well system, mitigating the impact of ever-increasing imported water costs, and the District will continue upgrading system fire flow and storage capacity.

The District is immensely proud of our activities to address San Juan Capistrano's failing system. SMWD and its partner agencies are similarly proud of our collective efforts to ensure the future of SOCWA. The December 9th signing of the SOCWA agreements represented a culmination of several years of negotiations, marking a milestone for improving regional wastewater management, and illustrating how cooperation and leadership can rewrite an antiquated 50-year-old document. These thoughtful efforts enabled one agency to set out on its own path to implement an ambitious direct potable reuse project, while allowing the remaining six agencies to collaboratively chart the future of wastewater treatment and water reuse for South Orange County.

SMWD's partnership with the City of San Juan Capistrano to acquire and upgrade a failing water and wastewater system, along with our cooperative efforts at SOCWA, reflect the Board's commitment to good governance. We believe that it is our role to support our constituents, our partner agencies, and holistically serve the residents in South Orange County. It is with this final thought that we write this letter to thank the LAFCO Board for its foresight in having supported our efforts in San Juan Capistrano.

Thank you for the opportunity to comment. If you have any questions, please contact General Manager Robert Grantham via email at robertg@smwd.com

Sincerely,

LAURA FREESE
Vice President, Santa Margarita Water District

CC: Board of Directors, Santa Margarita Water District

SOUTH ORANGE COUNTY WATER AGENCIES

December 19, 2024

Ms. Carolyn Emery
Executive Officer
Local Agency Formation Commission of Orange County
2677 N. Main Steet, Suite 1050
Santa Ana, California 92705

Re: Public Review Draft of the OCWD Municipal Service Review

Dear Ms. Emery:

The Orange County Water District (OCWD) filed an application with the Orange County Local Agency Formation Commission (LAFCO) to prepare a study on the potential consolidation of OCWD and the Municipal Water District of Orange County (MWDOC). This study was undertaken as part of LAFCO's drafting of the Municipal Services Review (MSR) for OCWD. As the retail water agencies serving south Orange County, we have reviewed LAFCO's Public Review Draft on the topic of potential consolidation to ensure that the benefits, costs, and impacts to South Orange County were given thorough consideration.

We have reviewed LAFCO's Public Review Draft from our unique perspective: as the largest block of water importers in Orange County. South Orange County water retailers in the South Orange County Agencies Group rely on, to a much greater degree, imported water and the services provided by MWDOC rather than by OCWD. To provide perspective on this difference, the South County Agencies imported, in each of the past three years, an average of over 88,000 acre-feet of water. This amount was nearly **seven times** the amount of imported water purchased by OCWD over the same time period.

<u>SPECIFIC COMMENTS ON THE PUBLIC REVIEW DRAFT:</u>

OCWD and MWDOC have distinct yet complementary roles in Orange County's regional water management system. OCWD, per its enabling act, is responsible for overseeing and sustainably managing the Orange County groundwater basin for the common benefit of agencies with access to the groundwater basin. MWDOC serves as the wholesale water supplier for most of Orange County, ensuring long-term water reliability of imported water supplies through its coordination with the Metropolitan Water District of Southern California (MWD).

It is important for LAFCO and the Public Review Draft to reflect that OCWD and MWDOC have different customers that benefit from each agency's distinct services. As in any consolidation analysis, improved customer service, increased operational efficiencies, lower administrative costs, enhanced reliability, and equitable treatment for each unique groups of customers and residents must be evaluated. The Public Review Draft's analysis remains at the cumulative level instead of at a ratepayer/resident group level. Because of this, it is unclear whether "cross subsidies" would be present between OCWD customers and MWDOC customers, if the two agencies were to consolidate. Fundamentally, we believe each ratepayer group should pay its fair share, no more or no less.

Finally, as a point of clarification, OCWD is not – as alleged in the Public Review Draft – the "largest buyer of imported water supplies from MWDOC" (see page 10 and MSR Determination 5 on page 80). In fact, **three** of the retail water agencies serving south Orange County individually purchased substantially more imported water than OCWD.

Quantified Cost Savings from a Potential Consolidation:

We agree that implementing the most favorable organizational structure in any consolidation can achieve operating efficiencies, reduce costs through consolidated staffing, streamline outside administrative and legal support, and optimize internal operating practices. The Public Review Draft identifies potential operational efficiencies from a consolidation between OCWD and MWDOC, but the amount of cost savings is speculative due to several important factors, which are discussed in the Draft, being unknown at this time. Consolidation costs associated with severance of pension liabilities, debt obligations, and transition-related expenses – to highlight a few – could substantially alter the value of any cost savings.

The Public Review Draft makes generous consolidation assumptions and forecasts cost savings at $3.98 million annually, excluding retirement costs. This represents an approximately 0.7% decrease in costs (see Section 5.7 Findings, Number 2). We are concerned that given the significant number of unknown costs not included in the evaluation that this number may not be realistic and may not align with an actual outcome.

Even if the assumed assumptions were realized, the cost savings must be weighed against the impacts on water services to the various customer groups. The analysis leaves open the question if all Orange County residents will see a cost savings of $1.27 per year. It also fails to evaluate whether some customers would save money while others would see increased costs. Further, it is important to note that the "best case" anticipated savings from a potential consolidation would likely be modest, especially when offset by transition costs that could amount to tens of millions of dollars.

Regional Water Management Structure:

The Public Review Draft acknowledges the strong governance of both OCWD and MWDOC, and that both are successfully fulfilling their respective operational responsibilities. While both agencies are well-positioned financially and operationally, the report does not identify how the clear division of roles and responsibilities that OCWD and MWDOC have to distinct customers would be handled in a consolidation, and how long-term reliability of water supply and effective water resource management in the region would be truly enhanced. The benefits to regional water management that the Public Review Draft does expand upon are the coordination of grants and legislation. The report notes that this coordination and collaboration could occur without consolidation. It is worth noting that all water agency managers in Orange County support coordination and collaboration among agencies – including OCWD and MWDOC – when mutual benefits can be realized.

What the Public Review Draft does discuss at length is the need for legislative action on the enabling act of OCWD, MWDOC and/or MWD. In our collective experience, enacting legislation is an inherently complex and uncertain process. It is highly likely that any proposed change to any of the authorizing acts for OCWD, MWDOC or MWD would face opposition from external stakeholders, including MWD and other parties with vested interests in the outcome. Such opposition could further complicate and delay the legislative process, increasing both the time, costs, and other challenges associated with pursuing consolidation. We believe this would be particularly true when it comes to the total number of seats at a consolidated agency (which should be an odd number instead of an even 10 as included in the Public Review Draft), with any change to how MWD seats are selected, and with any change in the agencies that may become MWD member agencies.

CONCLUSION:

Over the past four decades, the feasibility of consolidating OCWD and MWDOC has been the subject of numerous analyses and Orange County Grand Jury reports. These inquiries, similar in scope to the current LAFCO study, looked at both the potential costs and benefits of merging the two entities. The Public Review Draft acknowledges that some of these examinations recommended a consolidation, and some did not. This is because any consolidation of OCWD and MWDOC would be complex, and the suggested benefits may not outweigh the risks and costs involved. Without clear and compelling evidence of substantial efficiencies and benefits to both MWDOC and OCWD, as well as the overall Orange County water community and customers, the governance structure of Orange County's wholesale water agencies should remain unchanged.

We encourage careful consideration of these factors and complexities, and how they may impact any of the benefits the Public Review Draft cites. Should you have any questions regarding our comments, please do not hesitate to contact us.

Sincerely,

Mike Gaskins
Chair, South Orange County Agencies Group
Vice President, El Toro Water District

ORANGE COUNTY LAFCO

2677 North Main Street | Suite 1050
Santa Ana, CA 92705
Phone: 714.640.5100 | **Fax:** 714.640.5139

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglass Davert
Special District Member

James Fisler
Special District Member

Peggy Huang
City Member

Derek J. McGregor
Public Member

VACANT
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

VACANT
County Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

8a | **Commission Discussion**

MEETING DATE: March 12, 2025

TO: Local Agency Formation Commission of Orange County

FROM: Assistant Executive Officer
Office Manager/Commission Clerk
General Counsel

SUBJECT: OC LAFCO Personnel Policies and Procedures

BACKGROUND

Employment laws enacted by state and federal governments can change from year to year. Recognizing that, OC LAFCO staff and general counsel conduct annual reviews of the agency's Personnel Policies and Procedures to ensure that the Commission's local policy aligns with changes to those laws.

This report includes recommended amendments to the policy to align with recent changes to state and federal laws. The Personnel Policies and Procedures were adopted in 2003 and last reviewed in 2024. For ease of review, proposed amendments to the policy are indicated in redline format in Attachment 1 and are summarized in the table below.

Table 1: Summary of Proposed Amendments

Section	Page	Summary of Changes
Equal Employment Opportunity Policy: 3.3B	5	Added language to conform with federal law and further outlined for OC LAFCO employees involving equal employment opportunity violations related to unlawful harassment, discrimination, and retaliation.

Table 1: Summary of Proposed Amendments (continued)

Section	Page	Summary of Changes
Policy Against Harassment, Discrimination, and Retaliation: 3.6B	10-11	Added and updated language to conform with state law and further outlined for OC LAFCO employees violations related to unlawful workplace harassment, discrimination, and retaliation.
Performance Management: 3.7D	18	Administrative changes were made to the evaluation process.
Sick Leave Benefits: 3.18C, D	31	Updated and added language to conform with state law and to clarify accumulation of sick leave and permitted uses of sick leave.
Other Time Off: 3.23B	43	Updated to conform to state and federal laws regarding permitted use of bereavement leave.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Adopt the OC LAFCO Personnel Policies and Procedures, as amended.

Respectfully submitted,

LUIS TAPIA | CHERYL CARTER-BENJAMIN | SCOTT SMITH

Attachments:
1. OC LAFCO Personnel Policies and Procedures (Redline)
2. OC LAFCO Personnel Policies and Procedures (As Amended)

Personnel Policies and Procedures of the Orange County Local Agency Formation Commission

PART 1 – EMPLOYMENT

3.1 EMPLOYEE ACKNOWLEDGEMENT FORM

PLEASE READ THE FOLLOWING POLICIES AND PROCEDURES, FILL OUT AND RETURN THIS PORTION TO THE OC LAFCO COMMISSION CLERK OR IMMEDIATE SUPERVISOR WITHIN FIVE BUSINESS DAYS.

I acknowledge that I have received and read a copy of the Orange County Local Agency Formation Commission ("OC LAFCO") employee policy and procedures and understand all the policies, guidelines, and procedures stated within. I understand that I am responsible for reading these policies and for knowing and complying with the policies set forth herein during my employment with OC LAFCO.

Additionally, I specifically acknowledge that I have read and understand the following policies: Equal Employment Opportunity, Timekeeping, Overtime Pay, and Policy Against Harassment, Discrimination, and Retaliation.

The personnel policies and procedures describe important information about OC LAFCO, and I understand that I should consult the OC LAFCO Executive Officer regarding any questions I might have. I have entered into my employment relationship with OC LAFCO voluntarily and acknowledge that there is no specific length of employment. Accordingly, either I or OC LAFCO can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law. Furthermore, I acknowledge that these policies and procedures are not a contract of employment.

I understand and agree that the terms of this Acknowledgment may not be modified or superseded except by a written agreement signed by me and the OC LAFCO Executive Officer, that no other employee or representative of OC LAFCO has the authority to enter into any such agreement, and that any agreement to employ me for any specified period of time or that is otherwise inconsistent with the terms of this Acknowledgment will be unenforceable unless in writing and signed by myself and the OC LAFCO Executive Officer. I further understand and agree that if the terms of this Acknowledgment are inconsistent with any guideline or practice of OC LAFCO now or in the future, the terms of this Acknowledgment shall control.

Since the information, policies, and benefits described herein are necessarily subject to change, I acknowledge that revisions to them may occur, except to OC LAFCO's policy of employment-at-will. I understand that OC LAFCO reserves the right to modify, supplement or rescind any or all of its policies whenever it deems necessary or useful to do so, at any time with or without notice.

I have carefully read this Acknowledgement Form.

____
EMPLOYEE'S NAME (printed)

____
EMPLOYEE'S SIGNATURE

____
DATE

DISCLAIMER

THESE POLICIES AND PROCEDURES ARE NOT DESIGNED TO EXPLAIN EVERY EMPLOYMENT SITUATION OR OUTLINE EVERY RELEVANT POLICY OR PRACTICE. THESE POLICIES AND PROCEDURES ARE NOT INTENDED TO CONSTITUTE AN EMPLOYMENT CONTRACT OR A GUARANTY OF FUTURE EMPLOYMENT. EMPLOYMENT WITH OC LAFCO IS “AT-WILL.” THESE POLICIES AND PROCEDURES SUPERSEDE ANY AND ALL WRITTEN DOCUMENTS OR ORAL REPRESENTATIONS THAT CONTRADICT THE AT-WILL NATURE OF YOUR EMPLOYMENT, EXCEPT WHERE EXPRESSLY SUPERSEDED BY CONTRACT.

OC LAFCO RESERVES THE RIGHT TO REVISE, MODIFY, DELETE, OR ADD TO ANY AND ALL POLICIES, PROCEDURES, WORK RULES, OR BENEFITS STATED IN THESE POLICIES AND PROCEDURES OR IN ANY OTHER DOCUMENT, EXCEPT FOR THE POLICY OF AT-WILL EMPLOYMENT. ANY CHANGES TO THESE POLICIES AND PROCEDURES WILL BE DISTRIBUTED IN WRITING TO ALL EMPLOYEES SO THAT EMPLOYEES MAY BE AWARE OF THE NEW POLICIES.

3.2 AT-WILL EMPLOYMENT

A. Overview

The intent of this policy is to establish the At-Will-Employment Policy of OC LAFCO.

B. Policy

Employment at OC LAFCO is and shall be at all times on an at-will basis at all phases of employment. That means that either OC LAFCO or an employee may terminate an employee's employment at any time, for any reason, with or without cause or advance notice. The employment relationship between OC LAFCO and its employees is for an unspecified term and may be terminated by the employee, or OC LAFCO Executive Officer or the Commission of OC LAFCO ("Commission") at any time, with or without cause or advanced notice. Also, OC LAFCO reserves the right to transfer, demote, suspend, or administer discipline with or without cause or advance notice.

None of the policies, procedures, or contents of this herein is intended to create any contractual obligations which in any way conflict with OC LAFCO's policy of At-Will-Employment. The at-will relationship can only be modified by a written agreement signed by the employee and the OC LAFCO Executive Officer.

3.3 EQUAL EMPLOYMENT OPPORTUNITY POLICY

A. Overview

The intent of this policy is to establish the Equal Employment Opportunity Policy of OC LAFCO.

B. Policy

OC LAFCO is strongly committed to providing equal opportunity to all employees and applicants for employment. OC LAFCO does not discriminate on the basis of race (including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists), color, religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship status, age (40 years and older), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity and expression (including transgender identity and expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning (or is perceived to be transitioning), sexual orientation, sex stereotyping, marital status, domestic partner status, reproductive health decision making (protected under §12920 of the Government Code in California), military service and veteran status, physical and/or mental disability (including HIV and AIDS), legally protected medical condition or information (including genetic information,) protected medical leaves (requesting or approved), status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws. Any such discrimination is unlawful and all persons involved in the operations of OC LAFCO are prohibited from engaging in this type of conduct. OC LAFCO strictly prohibits the harassment of any individual on any basis listed above (see the Policy Against Harassment for further clarification).

OC LAFCO prohibits unlawful harassment, discrimination, and retaliation based on:

1. Any combination of the above characteristics;
2. A perception that the person has any of the above characteristics or any combination of those characteristics;
3. A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics of any combination of the above characteristics.

This policy applies to all employment practices, including recruitment, advertising, job application procedures, hiring, placement, firing, advancement, compensation training, benefits, transfers, social and recreational programs, and any other terms, conditions and privileges of employment.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Executive Officer or his/her designee or Chair of the Commission or General Counsel. To ensure our workplace is free of artificial barriers, violation of this policy including any improper retaliatory conduct will lead to discipline, up to and including discharge. All employees must cooperate with all investigations conducted pursuant to this policy.

An employee who believes that he or she has been subjected to any form of unlawful discrimination should make a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission or General Counsel. Complaints should be specific and should include the names of individuals involved and the names of any witnesses. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. If OC LAFCO determines that unlawful discrimination has occurred, effective remedial action will be taken to determine any future discrimination.

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Commitment Policy or the Policy against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

3.4 LACTATION ACCOMMODATION

OC LAFCO provides accommodations to lactating employees who need to express breastmilk during work hours in accordance with applicable law. OC LAFCO will provide a room or other location (not a bathroom) for employees to express breastmilk in private.

OC LAFCO will ensure that the lactation room or location will:

1. Be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk.
2. Be clean, safe and free of hazardous materials.
3. Contain a surface to place a breast pump and other personal items.
4. Contain a place to sit.
5. Have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery powered breast pump.

In addition, OC LAFCO will provide access to a sink with running water and a refrigerator suitable for storing milk (or other cooling device suitable for storing milk) in close proximity to an employee's workspace. In the event that more than one employee needs use of the lactation room, OC LAFCO will discuss alternative options with the employees to determine what arrangement addresses their needs, such as finding an alternative space or creating a schedule for such use.

OC LAFCO shall also provide a reasonable amount of break time for an employee to express any breast milk each time that she needs to do so. The break time, if possible, should run concurrently with any break time already provided to the employee. Break time for a nonexempt employee that does not run concurrently with rest time already authorized for the employee is unpaid. However, if the employee performs any work during such break, she must accurately record all time worked and OC LAFCO will compensate her for such time.

Employees who are nursing have a right to request a lactation accommodation. Such requests may be made verbally or in writing, should indicate the need for the accommodation in order to express breastmilk at work, and should be directed to OC LAFCO's Executive Officer. OC LAFCO shall respond to such requests in a reasonable manner, not exceeding five business days. If OC LAFCO cannot provide break time, location, or other reasonable accommodations in accordance with this policy, it will inform the requesting employee in writing. Because lactation accommodation needs may change over time, employees may request changes to existing accommodations by a written request to OC LAFCO's Executive Officer that describes the nature of the change that is requested.

OC LAFCO prohibits any form of retaliation or discrimination against an employee for exercising or attempting to exercise any rights provided under the above policies. Any such conduct or violations of the above-referenced policies should be reported to OC LAFCO's Executive Officer. Employees also have the right to file a complaint with the California Labor Commissioner for violation of a lactation accommodation right described in the policy above.

3.5 REASONABLE ACCOMMODATION

A. Overview

The intent of this policy is to establish the Reasonable Accommodation Policy of OC LAFCO.

B. Policy

To carry out OC LAFCO's commitment to providing equal opportunity for all employment applicants and employees, OC LAFCO will provide reasonable accommodations, including as required under applicable laws, in accordance with this policy. As previously stated, no program or activity administered by the employer shall exclude from participation, deny benefits to or subject to discrimination any individual based on an employee's actual or perceived disability or based on an employee's association with someone who has an actual or perceived disability.

Reasonable Accommodation to Disability and Religion: OC LAFCO will provide reasonable accommodations for applicants and employees with disabilities in accordance with the American with Disabilities Act (the "ADA") and California law, and for applicants and employees based on their sincerely held religious beliefs, practices, or observance under state and federal law. An employment applicant or employee who seeks a reasonable accommodation in order to perform essential job functions should make such a request in writing to the attention of the OC LAFCO Executive Officer or his/her designee. The request must identify (a) the job-related functions at issue; and (b) the desired accommodation(s). Following receipt of the request, the Executive Officer or his/her designee may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform their essential functions (or the applicant's ability to perform the essential functions of a desired position) but will not require disclosure of diagnosis or genetic history.

OC LAFCO will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, OC LAFCO will examine potential reasonable accommodations that will make it possible for the employee or applicant to perform the essential functions of the position. Such interactive process will include a meeting with the employee or applicant, OC LAFCO's designated representative(s), and, if necessary, the employee or applicant's health care provider. OC LAFCO will determine, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of reasonable accommodation(s) to provide. OC LAFCO will not provide an accommodation that would impose an undue hardship upon OC LAFCO or that is not required by law. OC LAFCO will inform the employee or applicant of any decisions made under this section in writing.

Reasonable Accommodations Relating to Pregnancy: OC LAFCO will provide reasonable accommodations to employees who are affected by a pregnancy, childbirth, or related medical conditions, as medically advisable. Such accommodations may consist of:

1. Modified work duties or a modified schedule to permit earlier or later hours or more frequent breaks; stools, chairs or other furniture; modified or acquired equipment or devices; reduced work hours; or other accommodations.

2. Temporary transfers to a less strenuous or less hazardous position if such transfer can be reasonably accommodated.

3. A "Pregnancy-Related Disability Leave" if the employee is disabled by pregnancy, as described in OC LAFCO's leave of absence policy.

Employees seeking a pregnancy-related accommodation, including transfer under this policy, should notify OC LAFCO's Executive Officer or Assistant Executive Officer. This notice must be timely and be provided by employees in advance when the need for reasonable accommodation is foreseeable; in all other circumstances, notice must be provided as soon as practicable. Failure to give advance notice when the need is foreseeable may delay the reasonable accommodation or transfer until 30 days after the date the employee provides notice (unless such delay would endanger the health of the employee, her pregnancy or her coworkers).

Reasonable Accommodations for Victims of Domestic Violence, Stalking, or Sexual Assault: OC LAFCO will also provide reasonable accommodations for an employee who is the victim of domestic violence, stalking or sexual assault if: (i) the employee has disclosed that status to OC LAFCO, and (ii) the employee requests an accommodation for the employee's safety while at work.

In such circumstances, OC LAFCO will engage, in good faith, in a timely and interactive process with the employee to determine an effective reasonable accommodation. In this process, the employee may be asked to provide: (i) a written statement, signed by the employee or someone acting on the employee's behalf, certifying that the accommodation is for the purposes stated above, and (ii) a certification confirming the employee's status as a victim of domestic violence, sexual assault or stalking. Six months after the date of each previous certification, OC LAFCO may request a recertification of such status. OC LAFCO will maintain any such certification as confidential if it identifies the employee as a victim of domestic violence, sexual assault or stalking, disclosing such information only as required by law, or as needed to protect the employee's workplace safety, and with prior notice of such disclosure to the employee.

Retaliation and Discrimination Prohibited: OC LAFCO prohibits discrimination, discharge, retaliation, or any other unlawful acts against an individual because such person requests or receives an accommodation under this (or another applicable) policy, or because such individual engaged in any other conduct protected by the law. Additionally, as addressed in OC LAFCO's separate policy on harassment, discrimination and retaliation, OC LAFCO prohibits unlawful harassment, discrimination or retaliation against any employee on the basis of an individual's disability, religion, religious creed, sex (including pregnancy, childbirth and related medical conditions), status as a victim of domestic violence, sexual assault or stalking, or any other status as protected by law.

3.6 POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

A. Overview

The intent of this policy is to establish the Policy Against Harassment for OC LAFCO.

B. Policy

OC LAFCO is committed to providing a professional workplace in which individuals are treated with respect and in a manner consistent with OC LAFCO's high expectations of ethical conduct. This necessarily means that OC LAFCO prohibits unlawful harassment, discrimination, and retaliation in accordance with applicable laws. OC LAFCO prohibits and will not tolerate harassment of employees, applicants, or persons providing services pursuant to a contract based on factors such as sex (which includes harassment based on sex, pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions), as well as harassment, discrimination, and retaliation based on such factors as race (including hair texture, protective hairstyles ~~((including, but not limited to,~~such as~~-~~braids, locs, and twists)~~,~~ and other traits ~~historically~~ associated with race), color, religion and religious creed (including religious dress and religious grooming practices), 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 or is (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 National Labor Relations Act or California Fair Pay Act, requesting a reasonable accommodation on a protected basis such as disability or sincerely-held religious belief, practice, or observance, or any other characteristic protected by federal, state, or local laws.

OF LAFCO prohibits unlawful harassment, discrimination, and retaliation based on:

1. Any combination of the above characteristics;
2. A perception that the person has any of the above characteristics or any combination of those characteristics;
3. A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics of any combination of the above characteristics.

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

C. Definition

Harassment is generally defined as verbal, physical, or visual conduct that creates an intimidating, offensive, or hostile working environment, or that interferes with an employee's work performance, and that is based on a protected status. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

As the definition above shows, harassing conduct can take many forms and may include, but is not limited to, the following (when based upon an employee's protected status as noted above): slurs, jokes, statements, gestures, assault, impeding or blocking another's movement or otherwise physically interfering with normal work, pictures, drawings, or cartoons, violating someone's "personal space," foul or obscene language, leering, stalking, staring, noises, unwanted or offensive letters or poems, offensive emails, texts, gifs, memes, or voicemail messages.

Prohibited unlawful harassment includes, but not limited to, the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments.

2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawing or gestures.

3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race or any other protected basis.

4. Threats, demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss, and offers of employment benefits in return for sexual favors.

D. Reporting and Complaint Procedure

Internal Reporting

Any incidents of discrimination, harassment, or retaliation, including work-related harassment by any OC LAFCO personnel or any other person, or any conduct believed to violate this policy should promptly submit a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission and General Counsel. It is the responsibility of all of us to contribute to a work environment that is free of unlawful bias, discrimination, harassment, and retaliation. Failure to bring forth a complaint prevents OC LAFCO from having the opportunity to correct the situation.

Managers and supervisors have a special responsibility under this policy. All levels of management and all supervisors are responsible for compliance with this Policy Against Harassment, Discrimination, and Retaliation and for ensuring that everyone in their department is aware of, understands and adheres to this policy. Supervisors and managers who receive complaints or who observe or learn of discriminatory, harassing, or retaliatory conduct must immediately inform the Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, so that an investigation may be initiated.

Complaints should be specific and include the names of individuals involved and names of any witnesses. Individuals making such complaints must report the facts as accurately and as completely as possible. Every reported complaint of harassment, discrimination, and retaliation is taken seriously by OC LAFCO. Every reported complaint, including allegations of misconduct, will be investigated thoroughly and promptly by impartial and qualified personnel. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. OC LAFCO will maintain confidentiality to the extent possible. If OC LAFCO determines that unlawful harassment has occurred, effective remedial action will be taken commensurate with the severity of the offense, up to and including termination. Appropriate action will also be taken to deter any future unlawful harassment.

Typically, the investigation will include the following steps: an interview of the employee who lodged the complaint to obtain complete details regarding the alleged harassment, discrimination, or retaliation; interviews of anyone who is alleged to have engaged in such conduct to respond to the claims; and interview of any employees who may have witnessed, or who may have knowledge of, the alleged conduct. The Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, will notify the employee who lodged the complaint of progress during the investigation, including documentation where applicable, and timely notification of the results of the investigation. The investigation will be handled in as confidential a manner as possible consistent with a fair, timely, and thorough investigation (e.g., parties will receive appropriate due process, OC LAFCO will reach reasonable conclusions based on the evidence collected, etc.). Employees (or other complainants) making complaints are expected to cooperate fully with the person or persons designated to investigate the complaint.

OC LAFCO prohibits conduct severe enough to be unlawful. Yet even more, OC LAFCO's workplace conduct standards also prohibit conduct and comments which are not severe enough to violate state or local or federal law—but which are still inappropriate in the workplace. For example, OC LAFCO prohibits abusive conduct in the workplace—whether or not it is based on a protected category. As a result, OC LAFCO will take prompt, appropriate, and effective corrective action (e.g., remedial measures) any time it is established that discrimination, harassment, or retaliation in violation of this policy has occurred—whether or not such violation also violates the law.

Corrective action may include, for example: training, referral to counseling, or disciplinary action ranging from a verbal or written warning to termination of employment, depending on the circumstances.

<u>External Reporting</u>

In addition to OC LAFCO internal complaint procedure, an employee may file an external complaint by contacting the following:

1. Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] at 800-884-1684 or visiting https://calcivilrights.ca.gov/contactus/.

2. Equal Employment Opportunity Commission (EEOC) at 800-669-4000 or visiting https://www.eeoc.gov/contact-eeoc.

OC LAFCO will not tolerate retaliation against an individual for good faith reports of harassment, discrimination, or retaliation; assisting another in making a report; cooperating in an investigation; filing an administrative complaint with a government agency; or engaging in other protected activity. Such retaliation is a separate violation of the law and of OC LAFCO policy and is subject to disciplinary action up to employment termination. Individuals who believe they have experienced or been threatened with such retaliation, and any manager or supervisor who learns of possible retaliation, must immediately report it using the same Complaint Reporting Process above.

E. Sexual Harassment and Sexual Harassment Prevention Training

Sexually harassing conduct in particular may include all of the above prohibited actions, as well as other unwelcome conduct, such as requests for sexual favors, conversation containing sexual comments, and other unwelcome sexual advances. For example, sexual harassment can be:

- Verbal: sexual innuendoes, sexually suggestive or degrading comments, text messages, gifs, memes, sexual jokes or slurs, graphic commentaries about a person’s body, or repeated sexual advances or invitations.

- Nonverbal: displaying sexually suggestive objects, pictures, cartoons, magazines, calendars or posters, or making suggestive or insulting sounds, leering, whistling, or obscene gestures.

- Physical: offensive touching, brushing against a person’s body, unwanted hugging or kissing, or impeding or blocking a person’s normal movement. Sexually harassing conduct may arise if a reasonable person subjected to the conduct would find that the harassment so altered working conditions as to make it more difficult to do that person’s job. Sexually harassing conduct can occur regardless of the sex, sexual orientation, or gender identity of the harasser or of the person being harassed. Sexually harassing conduct need not be motivated by sexual desire to be violate of this policy.

All non-managerial employees must attend a one-hour Sexual Harassment Prevention Training, and all managerial employees must attend a two-hour Sexual Harassment Prevention Training. All OC LAFCO employees will be required to attend a sexual harassment prevention training every two years as assigned by Administration. Managers will receive two hours of training every two years as assigned by Administration. Staff may be required to attend additional anti-harassment or other sensitivity trainings in regard to any protected class. OC LAFCO employees may refer to the Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] sexual harassment prevention online training course appropriate for their position. You may also visit https://calcivilrights.ca.gov/ to access the online training courses.

F. Retaliation

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Policy or the Policy Against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith. An employee who believes that he or she has been subjected to any form of unlawful retaliation should promptly make a complaint, preferably written, in the same manner as described above. Complaints of harassment will be investigated, and appropriate action will be taken to protect OC LAFCO employees from any form of unlawful retaliation.

3.7 PERFORMANCE MANAGEMENT

A. Overview

The intent of the performance review process is to create a supportive, safe, professional performance review process and an environment that optimizes the employee's ability to receive and actualize constructive performance feedback and that motivates the employee to authentically and actively pursue personal and professional growth/excellence.

B. Performance Review Policy – General Employees

A review and discussion of each employee's performance is conducted to:

1. Ensure assigned projects/tasks are completed at an acceptable level of quality to effectively serve the mission, vision, and values of the agency.

2. Plan for maximizing employee performance to serve the agency's needs.

3. Motivate and assist employees in achieving their personal growth and career objectives.

C. Performance Review Procedure – General Employees

The discussion of job performance and goals on an informal, weekly basis is strongly encouraged. The formal employee performance review process will include:

1. *Assessment of Employee Job Performance* – At the beginning of the fiscal year, both the employee and supervisor will complete an assessment of his/her job performance. The assessment will include a summary of projects/tasks completed and a well-organized, clear and in-depth self-analysis of job performance as related to projects/tasks.

2. *Assessment of Employee Professional Strengths and Weakness* – Both employee and supervisor will prepare an individual written statement of employee's professional and personal strengths and weaknesses as they relate to the work environment.

3. *Discussion of Employee Assessments* – Following preparation of the assessments (job performance and professional strengths and weaknesses), a meeting will be convened with the employee/supervisor to compare, contrast and discuss assessments/statements and identify areas for goal setting.

4. *Development of Discussion of Goals* – Based upon discussion with supervisor, employee prepares draft annual goals for discussion and review with the Assistant Executive Officer and/or Executive Officer. Goals should be specific, concise, measurable and represent commitment to professional growth.

5. *Finalization of Goals and Performance Review* – Following goal development, a meeting will be convened involving employee/Assistant Executive Officer/Executive Officer to jointly discuss and finalize employee goals. The employee will be responsible for preparing the final, agreed to written goals and submitting them to supervisor.

Performance reviews will be completed for all General Employees by no later than the end of the first quarter of each fiscal year.

While merit-based pay adjustments are awarded by OC LAFCO in an effort to recognize truly superior employee performance, positive performance evaluations do not always guarantee increases in salary or promotions. Salary increases, and promotions are solely within the discretion of OC LAFCO and depend on many factors in addition to performance. Pay increases or bonuses will be tied to the accomplishment of specific established employee goals.

After receiving their review an employee will be required to sign the evaluation report acknowledging that it has been presented and discussed between the employee and the Assistant Executive Officer or the Executive Officer. OC LAFCO's provision of performance evaluations does not alter the at will employment relationship.

D. Policy for Executive Officer Performance Evaluation Process (Adopted March 13, 2024)

1. As part of the performance evaluation process, the Executive Officer will prepare a year-end report summarizing the status and accomplishments of the goals and objectives included in the agency's three-year strategic/work plan adopted by the Commission.

2. The Executive Officer will complete a self-evaluation indicating his/her performance relative to the adopted goals and objectives.

3. The Chair or his/her designee will provide each Commissioner with the Executive Officer's self-evaluation and a blank evaluation form for that Commissioner's completion prior to the full Commission closed session performance discussion.

4. The Chair or his/her designee will lead the Commission's closed session discussion on the Executive Officer's performance, soliciting feedback and input from all Commissioners.

5. The Chair will be given financial ~~parametersfor~~parameters for negotiating compensation with the Executive Officer and delegated authority to represent the Commission in compensation discussions with the Executive Officer.

6. The Chair and his/her designee, if applicable, will meet with the Executive Officer to provide the Commission's feedback, sentiments of the discussion and to negotiate compensation.

7. The Chair will report back to the Board to close out the Executive Officer Evaluation Process and work with General Counsel to prepare any necessary agenda items and public action required to complete the process.

8. The Executive Committee will meet with the Executive Officer as warranted to check on the progress of the strategic/work plan and discuss any necessary adjustments for discussion with the full Commission.

3.8 PERSONNEL RECORDS

A. Overview

The intent of this policy is to clarify the guidelines for treatment of employee personnel records and information.

B. Policy

OC LAFCO maintains a personnel file on each employee. An employee's personnel file will contain only material that OC LAFCO determines is necessary and relevant to the administration of OC LAFCO's personnel program. Personnel files are the property of OC LAFCO, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

Employees have the right to inspect certain documents in their personnel file, as provided by law, in the presence of an OC LAFCO representative at a mutually convenient time. Employees may add written versions of any disputed item to their file. OC LAFCO will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy or jeopardize the safety of OC LAFCO personnel.

OC LAFCO will attempt to restrict disclosure of an employee's personnel file to authorized individuals within the organization. Any request for information from the file must be made to the Executive Officer or specific designee. Only the Executive Officer or specific designee is authorized to release information regarding current or former employees. Disclosure of personnel information to outside sources will be limited to the extent allowed by law. However, OC LAFCO will cooperate with requests from authorized law enforcement or local, state or federal agencies conducting official investigations, with validly issued subpoenas and as otherwise required by law or legal proceeding to be released.

3.9 TERMINATION

A. Overview

The intent of this policy is to explain the types of termination and OC LAFCO's procedures for processing terminations.

B. Policy

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated.

1. Voluntary Resignation

An employee who voluntarily resigns his/her employment is asked to prepare a written letter of resignation informing OC LAFCO of the intended resignation date. Although not required, employees who voluntarily resign are asked as a courtesy to give OC LAFCO at least two weeks' notice prior to the resignation date in order to provide time to search for an adequate replacement if necessary and to ensure a smooth transition.

An employee is also considered to have voluntarily terminated employment by failing to report to work for three consecutive scheduled workdays without notice, or without prior approval by the Executive Officer or Assistant Executive Officer.

2. Discharge

The violation of the policies and procedures of OC LAFCO or any other illegal acts may result in disciplinary action up to and including termination. Disciplinary actions may include verbal and written warnings, suspension, probationary periods, and termination of employment, depending on the conduct involved. OC LAFCO maintains its at-will status. OC LAFCO reserves the right to utilize any form of disciplinary action, up to and including termination, at any stage it deems appropriate, depending on the circumstances.

C. Exit Interview

OC LAFCO will generally schedule exit interviews at the time of employment termination. The exit interview will provide an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to OC LAFCO, or return of property owned by OC LAFCO. Suggestions, complaints, and questions are encouraged. Employees will receive their final pay in accordance with applicable state law.

D. At-Will Employee

Because employment with OC LAFCO is based on mutual consent, both the employee and OC LAFCO have the right to terminate employment at will, with or without cause, at any time. Nothing in this termination policy changes the At-Will Employment policy of OC LAFCO.

E. Benefits

Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable upon termination will be paid in accordance with applicable state law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued, and of the terms, conditions and limitations of such continuance.

PART 2 – SALARY AND WAGE ADMINISTRATION

3.10 HIRING AND STAFFING

A. Overview

The intent of this policy is to provide guidelines on the hiring and staffing practices of OC LAFCO.

B. Policy

To attract and retain qualified staff for OC LAFCO, it is the policy of OC LAFCO to use a criterion-based recruitment process and behavioral-based interview process to ensure the most qualified candidates are hired.

C. Recruiting

Recruiting applicants will be aggressive enough to assure an adequate supply of qualified candidates. The recruitment process may include, but is not limited to, the use of professional recruitment firms, referrals from current or past employees, walk-in applicants, and/or web-based postings.

D. Interviews

The employment interview is a major element in the selection process. It allows the applicant an opportunity to demonstrate his or her capabilities to perform the job and provides information to the candidate about the position. Interviews may be conducted by telephone or in face-to-face sessions.

All interview questions must be job-related and have direct bearing on the tasks of the position. Interviews and questions are standardized so that all applicants are evaluated equally. Questions that express (directly or indirectly) any preference, limitation, or general reference to any individual on the basis of a protected category are prohibited.

E. Probationary Period

All OC LAFCO new hires will have a twelve-month probationary period beginning on the first day of employment. The OC LAFCO supervisor will provide job training during this time period and the employee will be evaluated every three months during the probationary period. OC LAFCO may terminate an employee during this twelve-month probationary period at any point in time therein. OC LAFCO retains the right to extend the probationary period. Nothing in this provision shall alter the at-will status of any employee.

3.11 COMPENSATION PRACTICES

A. Overview

The intent of this policy is to provide guidelines on the compensation practices of OC LAFCO.

B. Policy

It is OC LAFCO's policy to provide salaried exempt and salaried non-exempt employees with equitable salary compensation for the specific job assignment. The OC LAFCO salary compensation program is a "pay for performance" system and is designed to ensure OC LAFCO maintains an equitable value of its jobs while encouraging excellent employee performance. Consideration is given to relevant external factors such as economic conditions and the OC LAFCO annual budget. The program is implemented through established salary structures and grades, with salary ranges for both exempt and non-exempt employees. These grades provide different rates of pay for positions requiring different degrees of responsibility, experience, skills and knowledge.

Utilization of these criteria permits OC LAFCO to give individual consideration to each employee's pay in relation to his or her responsibilities, degree of contribution to the success of the agency, and job performance.

C. Salary Increases

Individual salary increases are not awarded on the basis of length of service but based on performance and OC LAFCO affordability.

D. Merit Reviews

1. Merit increases may be awarded during the compensation year in recognition of the employee's performance. The employee's performance is measured primarily on the following criteria as documented in the annual performance review: (1) did the employee successfully achieve his/her agreed upon goals and objectives? (2) what is the employee's overall value to the organization?

2. The following factors may be considered in the determination of the amount of increase: the employee's position in the pay range; compensation compared to other employees in comparable jobs; and the annual budget of the organization.

3. Merit increases, if awarded, are typically effective at the beginning of the fiscal year but may also be deferred to any effective date within the compensation year. Employees may also receive a "pass" on any merit increase in base salary if (1) his/her performance in the fiscal year has not been worthy of an increase, and/or (2) the agency's budget does not have sufficient funds for increases.

4. Probationary Merit Increase

   If an employee is appointed at Step 1 of the salary range, he/she may be eligible to receive a 2.5% step increase upon completion of six-months of service based on his/her performance.

5. Merit Performance Incentive Pay Program for Employee at Top-Step

   Once an employee reaches the top-step of the salary range for his/her classification, each year, in conjunction with the annual performance evaluation, the employee may be eligible to receive Merit Performance Incentive Pay ranging from zero to three percent of his/her annual base salary.

E. Organizational Promotion

1. A promotional increase may be awarded to an employee who experiences a significant change in the level or kind of work performed.

2. A promotional increase may be awarded to an employee who performs at a high level of competence and has demonstrated readiness to assume broader, more complex assignments if these assignments become

available.

Proposed promotions from non-exempt to exempt salaried status, or from hourly to salaried status, must meet the exemption tests of the California Department of Industrial Relations, Industrial Welfare Commission Wage Order (California Wage Orders) and the Federal Fair Labor Standards Act.

3.12 EMPLOYMENT CATEGORIES

A. Overview

The intent of this policy is to define employment classifications so that employees understand their employment status and benefit eligibility.

B. Policy

These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and OC LAFCO.

C. Exempt/Nonexempt

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the Executive Officer. Generally, EXEMPT employees (as defined by the Fair Labor Standards Act of 1938) are not eligible for overtime pay and are paid on a salary basis. Conversely, NON-EXEMPT employees are generally paid on an hourly basis and are eligible for overtime pay.

D. Employment Categories

In addition to the above categories, each employee will belong to one other employment category:

1. Regular Full Time – Employees who are not in an extra help status and who are regularly scheduled to work OC LAFCO's full-time schedule. Generally, they are eligible for OC LAFCO's benefit package, subject to the terms, conditions, and limitations of each benefit program.

2. Part-Time – Employees who are not assigned to an extra help status and who are regularly scheduled to work less than 30 hours per week. While

part time employees do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they may be ineligible for some of OC LAFCO's other benefit programs.

3. Extra Help – Employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Extra help employees retain that status unless and until notified of a change in writing signed by the Executive Officer. Extra help employees are ineligible for OC LAFCO's benefit programs unless otherwise required by law.

4. Intern – OC LAFCO sometimes utilizes the services of paid student interns. Interns are used to supplement the OC LAFCO work force and provide opportunities for local students to gain local government work experience. Employment is for a specified period of time. Interns are ineligible for OC LAFCO's benefit programs.

5. Temporary Assignment Category (outside of regular full-time/part-time employment categories) – Occasionally, employees may be assigned additional temporary duties outside of their current position description when there is a business need, which may be due to new duties to be performed by OC LAFCO which have not yet been permanently assigned, a vacancy during a recruitment or extended leave of another employee. The term of a temporary assignment will be limited and include duties that are required to support internal efficiencies and administration operations. All temporary assignments will be approved by the Executive Officer and will be compensated at a maximum two and a half percent temporary increase to the affected employee's current bi-weekly salary. At the end of the temporary assignment, the affected employee's bi-weekly salary will be returned to the previous bi-weekly salary. This additional amount will not be reportable for retirement purposes. Employees that are required to perform additional duties on a short-term basis (for less than two weeks) will not be eligible for additional pay. A temporary assignment is not intended to be applied to multiple employees at one time for sharing additional duties due to vacancies or extended leaves.

   This provision does not apply to the position of Executive Officer.

E. Job Descriptions

Job descriptions are adopted by the Commission in the Classification and

Compensation Resolution. Please refer to Resolution CP 18-04 for the current job descriptions.

3.13 PAY POLICIES

A. Overview

The intent of this policy is to explain and clarify wage administration, work hours and timekeeping.

B. Payment of Wages

All employees are paid biweekly (every two weeks). There are 26 pay periods each year with paydays being every other Friday. In the event that the normal payday falls on an OC LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

C. Pay Advances

OC LAFCO does not give advances against wages or un-accrued vacation time.

D. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. Payment due to a correction will be processed in accordance with state law.

E. Overtime Pay

When OC LAFCO's needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work for nonexempt employees must receive prior authorization of the Executive Officer. Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour laws, based on actual hours worked. OC LAFCO will make an effort to evenly distribute overtime based on business necessity among the employees with the necessary skills, knowledge, and abilities. When possible, advance notification will be provided. Employees who refuse to work overtime shall be subject to corrective action, up to and potentially including termination.

OC LAFCO policy is that all overtime should be pre-approved by the Executive Officer. OC LAFCO will pay any overtime worked, regardless if pre-approved. However, the working of overtime that has not been approved may be grounds for discipline, up to and including termination of employment.

All employees who are classified as "non-exempt employees," as defined under applicable laws or regulations, will be eligible for overtime pay. Exempt employees are not entitled to overtime pay. Overtime is typically defined under federal law as hours worked by non-exempt employees in excess of forty (40) hours in a workweek. In California, overtime is also typically applied to hours worked over eight (8) in a standard work day; though alternate work weeks allow variance. OC LAFCO follows the applicable state and federal laws when calculating overtime. Please note that only actual hours worked in a given workday or work week apply in calculating overtime. In other words, sick leave, vacation, holidays, or other paid time off is not considered hours worked for purposes of calculating overtime. Employees are obligated to accurately report their overtime worked; any error in overtime payment must be reported in writing to management for correction.

Employees of OC LAFCO designated as exempt employees shall not be subject to the provisions of this section.

F. Work Hours

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week, at the discretion of the Executive Officer.

G. Timekeeping

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require OC LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Nonexempt employees shall accurately record the actual time they begin and end their work electronically. Each employee is responsible for the daily recording of all time worked on this device. Each employee MUST record their start and finish times for the work day and for meal periods daily. Nonexempt employees must also record departure from work for any non-work-related reason. Failure to do so will subject an employee to discipline, up to and including discharge. Submitting time for another employee is grounds for discipline, up to and including termination. Altering, falsifying, or tampering with time records may result in termination.

OC LAFCO's time keeping policies must be followed at all times. Employees are responsible for reviewing their time entries for accuracy and confirming that their paychecks accurately reflect their actual hours worked. If there are any errors on your paycheck, you should report the error immediately in writing. 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. Any modifications to a time record must be initialed by the employee, supervisor and the Executive Officer. Exempt employees are expected to also keep track of their hours on a timesheet to be provided by OC LAFCO.

3.14 COMPENSATION STRUCTURE

The compensation structure is performance-based with ten-step salary ranges for each classification (See the Classification and Compensation Resolution CP 18-04 for details).

PART 3 – BENEFITS

3.15 INSURANCE AND OTHER BENEFITS

A. Overview

The intent of this policy is to provide insurance and other benefits to all regular full-time and part-time employees of OC LAFCO. The Commission will review and may change these benefits on an annual basis at its discretion.

B. Policy

OC LAFCO employees will receive health insurance, dental insurance and other insurance depending on their particular classifications. These insurance benefits will generally, but are not required to be, the same as provided to County of Orange employees. OC LAFCO employees are also eligible to participate in the Orange County Employees Retirement System (OCERS) and the County of Orange Defined Contribution 457(b) and 401(a) Plans. The Commission will review and establish the benefits annually at its discretion. A Benefits Summary Chart will be prepared annually setting forth these benefits and provided to all OC LAFCO employees.

3.16 TUITION REIMBURSEMENT

A. Overview

OC LAFCO encourages and supports efforts by its employees to improve their skills and educate themselves for advancement. OC LAFCO believes that assisting the employee in the pursuit of an educational agenda or to otherwise expand their work-related knowledge base will benefit both the employee and OC LAFCO.

B. Policy

All regular full-time employees of OC LAFCO, who have successfully completed the twelve-month probationary period, are eligible to receive educational assistance.

Upon pre-approval by the Executive Officer, the following reimbursement policies have been outlined to cover tuition and course/seminar or degree related expenses:

1. Maximum company reimbursement for all course or degree related expenses is $3,000 per calendar year in pursuit of any approved courses, seminars, certifications, associate degree, or bachelor's degree. Reimbursement in pursuit of an approved masters or doctoral degree program is $5,000 per calendar year.

2. Employees will not be reimbursed for more than two (2) courses in a single semester or quarter.

3. Course must be related to the work of the employee's position or occupation and must be taken at accredited institutions.

4. Pre-approval of classes (or course of study) is required by the Executive Officer. Employees must submit a written request for tuition reimbursement, prior to enrolling in the class, to the Executive Officer for approval.

5. Must be an OC LAFCO employee throughout the duration of the course.

6. The percentage of reimbursement is based on the grade earned for each college seminar, certification, associate, bachelor, master or doctoral degree course:

Grade A	100%
Grade B	100%
Grade C*	50%
Pass/Credit	50%

*****Master's and doctoral degree courses completed with a letter grade of "C" or below are not eligible for any reimbursement.

7. Reimbursable expenses include tuition, required textbooks, lab fees, library fees, and required registration and parking fees.

8. Upon completion of the course, official grades and receipts must be submitted

to the Executive Officer for reimbursement. Taxes are withheld on educational reimbursements when required by law.

3.17 STAFF MILEAGE REIMBURSEMENT

A. Policy

OC LAFCO staff will be reimbursed at the currently applicable IRS rates for reasonable and necessary mileage expenses when personal vehicles are used for OC LAFCO-related business, including, but not limited to, meetings, project site visits, and conferences. To receive mileage reimbursement, a form indicating the date of the trip, number of miles traveled, purpose of the trip, and reimbursement calculation is required to be submitted for review and approval by the Executive Officer. If approved, the form is submitted to the Bookkeeper for issuance of a reimbursement check.

PART 4 – TIME OFF

3.18 SICK LEAVE BENEFITS

A. Overview

Employees who are hired to work at least thirty days are eligible for California Paid Sick Leave. The intent of this policy is to provide paid time off for the purpose of illness or other medical requirements.

The Commission will review and may change any of these sick leave benefit provisions on an annual basis at its discretion.

B. Policy

OC LAFCO provides paid sick leave benefits to all employees as required by California law.

C. Accumulation of Sick Leave

During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regular scheduled workweek or period (approximately seventy-two (72) hours per year).

After an employee has been paid for six thousand two hundred forty (6240) regular scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period (approximately ninety-six (96) hours per year).

Sick leave earned shall be added to the employee's sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period or for a portion of the pay period during which the employee terminates service.

Employees may only accumulate up to a maximum of 1500 hours of sick leave.

Extra Help Employees shall accrue sick leave at a rate of ~~not less than~~ one hour per every 30 hours worked beginning at the commencement of employment.

Extra Help Employees will have a maximum sick leave accrual of ~~48~~ 80 hours. Extra Help Employees will not accrue any additional sick leave hours once they hit ~~48~~ 80 hours in their sick leave balance. Once they fall below ~~48~~ 80 hours of sick leave accrual, they will begin to accrue sick leave again. Extra Help Employees may use up to a maximum of ~~24~~ 40 hours sick leave annually.

Should an Extra Help Employee become a regular full time or part time employee, the pro-rated sick leave hours they accrued as an Extra Help will roll over into their sick leave account as a regular full time or part time employee.

D. Permitted Uses of Sick Leave

Employees may use Paid Sick Leave for the following purposes:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's qualified family member.

2. For an employee who is a victim or whose family member is a victim (an individual against whom a qualifying act of violence is committed), as defined in subdivision (j) of Section 12945.8 of the Government Code, the purposes described in paragraph (3) of subdivision (a), or subdivision (b), of Section 12945.8 of the Government Code~~To attend legal proceedings, or to obtain medical treatment, counseling or other victims' services for domestic violence, sexual assault, or stalking if an employee is a victim of domestic violence, sexual assault, or stalking as described in Labor Code Section 230(c) and 230.1(a)~~.

3. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:

   a. The illness or injury of the employee or member of the employee's immediate family was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.

b. The employee must notify the Executive Officer within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave.

c. OC LAFCO shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.

d. Upon the employee's return to work, the employee may be requested to furnish OC LAFCO with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.

4. Absence from duty because of personal emergencies is not to exceed twenty (20) working hours during the fiscal year. A personal emergency is something unanticipated that requires the employee to personally attend to the situation and must be attended to during normal working hours.

5. An absence due to the air pollution alert, which prevents the employee traveling to his or her work location.

A "family member" for these purposes is defined as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling, or a designated person which is a person identified by the employee at the time the employee requests paid sick days.

Sick leave shall not be applied to an absence which occurs on a holiday observed by OC LAFCO.

In any use of sick leave, an employee's account shall be charged to the nearest quarter hour for a non-exempt employee, which exempt employees will be charged only for full-day absences. Exempt employees are defined as those employees who are exempt from overtime rules under the Fair Labor Standards Act.

To the extent possible, employees must provide reasonable advance notice of their need for California Paid Sick Leave under this policy to the Executive Officer or their immediate supervisor by telephone. If the need is not foreseeable, the employee must provide notice as soon as practicable. It is the responsibility of the employee to keep the supervisor informed as to continued absence beyond the first day.

An employee may be required to furnish a certificate issued by a licensed health care provider or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls when OC LAFCO has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

Any accrued, unused sick leave will roll over into the next calendar year.

E. No Payout of Sick Leave

There is no payout for unused accumulated sick leave when an employee leaves employment with OC LAFCO.

F. Transfer of Sick Time between OC LAFCO Employees

OC LAFCO employees, with the approval of the Executive Officer, may transfer up to 80 hours of sick leave per year to another OC LAFCO employee if needed to cover time off for medical or dental appointments or personal emergencies. OC LAFCO employees, with the written approval of the Executive Officer, may transfer a portion of their unused sick time balance to another OC LAFCO employee under the following circumstances:

1. An OC LAFCO employee may transfer no more than 80 hours of sick time to any one OC LAFCO employee during any calendar year.

2. The OC LAFCO employee receiving the sick time transfer must be experiencing personal or family medical issues requiring extended periods of time away from the office.

3. The OC LAFCO employee transferring sick time must maintain a minimum balance of at least 40 hours of sick time after an approved transfer.

4. All sick-time transfer requests must be approved by the Executive Officer.

3.19 VACATION[1]

A. Overview

This policy applies to all regular full-time and part-time employees of OC LAFCO. The intent of this policy is to provide paid time off for employees as a means of

[1]Amendment to the vacation policy for vacation accruals was approved by the Commission on October 11, 2023 with an effective date of December 15, 2023.

rest and rejuvenation. OC LAFCO encourages employees to utilize this benefit every year. OC LAFCO believes personal time off is an important means to enable continuation of strong performance and positive contribution to OC LAFCO, as well as encourage a balanced and enriching life for employees. The Commission will review and may change any of these vacation benefit provisions on an annual basis at its discretion.

B. Policy

During the first three years of employment, an employee shall earn approximately .0577 hours of vacation leave with pay for each hour in a regularly scheduled workweek or period (120 hours or 15 days per year).

After an employee has been paid for 6,240 regularly scheduled hours, approximately three years, the employee shall earn approximately .077 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (160 hours or 20 days per year).

After an employee has been paid for 20,800 regularly scheduled hours, approximately ten years, the employee shall earn approximately .0962 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (200 hours or 25 days per year).

Regular part-time employees with continuous service working 20 hours or more per week will accrue vacation in accordance with the above schedule, on a pro-rated basis determined by normal hours worked. Active service for all regular employees commences with their first day of work and continues thereafter unless broken by an absence without pay or leave of absence. Extra help employees do not accrue paid vacation.

Employees cannot accumulate more than 240 hours of vacation.

Accrual ceases until vacation is utilized to bring the amount of accrued vacation below the applicable cap or vacation is cashed out as permitted by this policy.

In order to request vacation time, employees should submit a written request to the Executive Officer or Assistant Executive Officer. Efforts will be made to accommodate all employees' requests for specific vacation leave time. However, the Executive Officer or Assistant Executive Officer will also consider the needs of OC LAFCO when evaluating vacation requests.

In rare cases, the Executive Officer may allow an employee to take an advance on vacation accrual time; however, this advance will not be allowed to exceed the amount of time the employee is scheduled to accrue during the current service year. Before any advance on vacation is granted, the employee will sign an authorization which authorizes OC LAFCO to deduct from his/her final paycheck the amount of any un-accrued vacation time advanced to the employee which has not subsequently been accrued.

During each fiscal year an employee may request to be paid for accrued vacation in either two (2) separate increments of up to forty-five (45) hours each or one (1) increment of up to ninety (90) hours.

Upon separation from OC LAFCO employment, an employee is eligible to be paid for accrued, unused vacation days up to a maximum of 240 hours at 100% of the employee's hourly salary. In cases where an employee terminates employment with OC LAFCO and has been permitted to take vacation time prior to actual accrual, the final paycheck will reflect a deduction relative to the amount of unaccrued time off taken.

A holiday that falls during an employee's vacation leave will be treated and paid as a holiday and not as a day of vacation leave.

3.20 HOLIDAY

A. Overview

The intent of this policy is to provide paid time off for eligible employees for holidays throughout the year.

B. Policy

Holiday time off with pay will be granted to all regular full-time employees and regular part-time employees (prorated) for the days designated by the County of Orange on an annual basis. Each part-time employee scheduled to work, but permitted to take the day off, shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek up to a maximum of eight (8) hours of compensatory time. Holidays will vary year to year and a schedule will be published each year.

3.21 COMPENSATORY TIME

A. Overview

OC LAFCO employees earn compensatory time ("comp time") when a County holiday falls on a "flex" day. Limited comp time is also earned during the calendar year to all employee's time off to attend special religious or other designated events.

B. Policy

For employees who are not scheduled to work on a holiday (whose regular day off is the holiday) or their flex day falls on a holiday, management should work with employees to offer one of the following options:

1. The employee may change his or her schedule and take another day off in the same pay period where operationally feasible and without incurring overtime liability. For employees who are not on an eight-hour day schedule, the employee may go on an eight-hour day schedule for the workweek in which the holiday fills.

2. The employee may bank eight (8) hours of non-cashable compensatory time for use at a later date.

Compensatory time may be used in lieu of vacation time for time off. Compensatory time shall have no cash value and any unused hours will be forfeited upon separation from the County.

3.22 PREGNANCY RELATED DISABILITY LEAVE

A. Eligibility

In accordance with applicable law and this policy, female employees are eligible for a leave of absence and/or transfer on account of pregnancy, regardless of length of service with OC LAFCO.

B. Pregnancy Disability Leave

OC LAFCO recognizes that employees may be unable to work for temporary or extended periods of time due to pregnancy, childbirth, or related medical conditions. Accordingly, for any employee who is disabled by pregnancy, childbirth, or related medical conditions, OC LAFCO provides leave for the period of actual disability ("Pregnancy Disability Leave"), up to a maximum of four months. Pregnancy Disability Leave may be taken intermittently, or on a reduced-hours schedule, as medically advisable. An employee may also be entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions.

1. A woman is “disabled by pregnancy” if, in the opinion of her healthcare provider, she is unable to work at all or is unable to perform one or more of the essential functions of her job or to perform these without undue risk to herself, to the successful completion of her pregnancy, or to other persons.

2. Pregnancy disability leave is for any period(s) of actual disability caused by pregnancy, childbirth, or related medical conditions. Where medically advisable, pregnancy disability leave may be taken for a reasonable period of time, up to four months per pregnancy (eighty- eight workdays for a full-time employee). Employees who regularly work more or less than a 40-hour workweek are entitled to such leave on a pro rata basis.

3. Time off for necessary prenatal or postnatal care, as well as for any conditions such as severe morning sickness, doctor-ordered bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss and end of pregnancy, and recovery from childbirth are all covered by pregnancy disability leave.

C. Leave Due to Childbirth

Even if the employee is not disabled by pregnancy, childbirth, or related medical conditions, a pregnant employee is entitled to up to six weeks of leave for normal childbirth. A pregnant employee is entitled to up to eight weeks of leave for cesarean section. Employees working more or less than a 40-hour work week are entitled to such leave on a pro rata basis.

D. Leave, Transfer and Other Reasonable Accommodation Requests

1. Pregnant employees should notify the Executive Officer as soon as possible regarding their intent/need to take a leave of absence or to transfer due to pregnancy, childbirth, or related medical conditions. Such notice should specify the anticipated timing and duration of the leave or transfer.

2. Where the need for a leave of absence or transfer is foreseeable, employees must provide such notice at least 30 days prior to the date the leave or transfer is to begin. Further, employees must consult with the Executive Officer regarding the scheduling of any planned medical treatment or supervision so as to minimize any disruption to OC LAFCO’s operations. (Actual scheduling of the leave/transfer is subject to the approval of the employee’s healthcare provider.)

3. Where 30 days advance notice is not possible, notice must be given as soon as possible. If an employee fails to provide the requisite 30 days’ advance notice

for a foreseeable need for leave, without any reasonable excuse for the delay, OC LAFCO reserves the right to delay the taking of the leave until at least 30 days after the date that the employee does provide such notice. However, OC LAFCO will not deny a pregnancy disability leave or transfer where the need for leave is an emergency or was otherwise unforeseeable.

4. OC LAFCO shall respond to the leave or transfer request as soon as practicable and, in any event, no later than 10 calendar days after receiving the request. OC LAFCO shall attempt to respond to the leave request before the date of leave is due to begin. Once given, the approval shall be deemed retroactive to the date of the first day of the leave.

5. Reasonable accommodation other than leave or transfer will be granted upon request. Such requests must be supported by a written certification from the employee's healthcare provider.

E. Intermittent Leave

Pregnancy Disability Leave need not be taken in one continuous block. It may be taken on an as-needed basis, intermittently or on a reduced work schedule.

1. If it is medically advisable and foreseeable that an employee will be taking intermittent leave or leave on a reduced work schedule, OC LAFCO may require that the employee transfer temporarily to an available alternative position.

2. An "alternative position" is one that provides pay and benefits equivalent to those of the employee's regular position and better accommodates recurring periods of leave than the employee's regular job. It does not have to have equivalent duties. However, the employee must be qualified for the position.

3. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule.

F. Temporary Transfers

1. An employee may request a temporary transfer to a position with less strenuous or less hazardous duties when the employee's healthcare provider certifies that such a transfer is medically advisable.

2. Temporary transfers will be granted where appropriate and when OC LAFCO is able to reasonably accommodate the transfer, provided that the transfer would not require OC LAFCO to:

a. Create additional employment.
b. Discharge another employee.
c. Violate collective bargaining agreement.
d. Transfer a more senior employee in order to make room for the pregnant employee's transfer; or
e. Promote or transfer the employee or any other employee to a position for which he/she is not qualified.

G. Certifications

1. As a condition of taking a Pregnancy Disability Leave or transfer, the employee must provide medical certification from her healthcare provider that she is disabled due to pregnancy, childbirth or related medical conditions and/or that a transfer to an alternative position is medically advisable.

2. The medical certification should include:

   a. The date on which the employee became disabled due to pregnancy or the date of the medical advisability for the transfer.

   b. The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and

   c. A statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons or a statement that, due to pregnancy, the transfer is medically advisable.

   d. Upon expiration of the time period for the leave estimated by the health care provider, OC LAFCO may require the employee to provide another medical certification if additional leave time is requested.

H. Fitness for Duty

The employee must provide certification from her healthcare provider of her fitness for duty prior to being reinstated.

I. Pay During Leave

1. Pregnancy Disability Leave is unpaid leave. However, the employee may elect to use, or OC LAFCO may require that the employee use accrued sick leave to provide pay during the period of Pregnancy Disability Leave.

2. An employee may also elect, at her option, to use accrued vacation or other accrued paid time off, if any, to provide pay during pregnancy disability leave. The use of paid leave runs concurrently with Pregnancy Disability Leave and does not extend the length of the Pregnancy Disability Leave.

3. The employee may also be eligible to receive temporary disability insurance payments during her Pregnancy Disability Leave, and to coordinate the use of any accrued sick leave and/or vacation to supplement temporary disability insurance payments.

J. Reinstatement

1. The employee is entitled to be reinstated to the same or comparable position upon release to return to work by her healthcare provider.

    a. Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated by the date agreed upon, provided that the employee has provided medical certification of her fitness for duty.

    b. If the actual reinstatement date differs from the original agreement, the employee will be reinstated within two business days, where feasible, after the employee notifies OC LAFCO of her readiness to return and provides medical certification of her fitness for duty.

    c. Failure to return to work on the next workday following the expiration of pregnancy disability leave may be grounds for termination of employment.

2. The employee is not, however, entitled to any greater right of reinstatement than she would have had if she had not taken leave. Thus, reinstatement to the "same position" may be denied if for legitimate business reasons unrelated to the employee having taken a Pregnancy Disability Leave or transfer, the employee would not otherwise have been employed in her same position at the time reinstatement is requested.

3. Also, the employee has no greater right to reinstatement to a "comparable position" or to other benefits and conditions of employment than an employee who has been continuously employed. Thus, reinstatement to a comparable position may be denied if there is no comparable position open on the employee's scheduled date of reinstatement or within 60 calendar days thereafter.

4. In the event that the employee takes family and medical leave under the California Family Rights Act ("CFRA") following her pregnancy disability leave for the birth of her child, the employee's right to reinstatement shall be governed by the CFRA and OC LAFCO's Family and Medical Leave Policy rather than these provisions.

K. Seniority and Benefits

1. In general, employees taking Pregnancy Disability Leave will be treated the same as other similarly situated employees taking disability leave.

2. The employee returning from a Pregnancy Disability Leave shall return with no less seniority than she had when the leave commenced for purposes of layoff, recall, promotion, job assignment, and seniority related benefits such as vacation.

3. The employee shall retrain employee status during the period of leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority.

L. FMLA/CFRA and Pregnancy Disability Leave

In accordance with the Federal Family and Medical Leave Act (FMLA), OC LAFCO shall count each day of pregnancy disability leave against an eligible employee's entitlement to up to 12 weeks of leave under the FMLA. Pursuant to the CFRA, the right to CFRA is separate and distinct from the right to take leave for pregnancy disability, and PDL will not be counted against the CFRA leave entitlement.

M. Group Health Insurance

Where an eligible employee is on Pregnancy Disability/FMLA Leave, OC LAFCO will continue the employee's group health insurance coverage under the same terms and conditions as applied prior to the leave of absence.

1. In the event that the employee fails to return from leave, OC LAFCO may recover premiums it paid to maintain group health insurance coverage. (For details, see OC LAFCO's Family and Medical Leave Policy.)

2. If the employee coverage ceases after the exhaustion of Pregnancy Disability Leave/FMLA or other leaves, the employee may continue group health insurance coverage pursuant to federal and state COBRA guidelines.

3.23 OTHER TIME OFF

A. Overview

This policy applies to all regular full-time and regular part-time employees of OC LAFCO. The intent of this policy is to outline other types of paid and unpaid time off available to eligible employees.

B. Bereavement Leave

Upon request, employees who have been employed for at least 30 days will be entitled to five (5) days of paid leave, which will be pro-rated for part-time employees based on hours worked, for each death in the employee's immediate family. For purposes of this section, immediate family is defined as the employee's spouse, parent, child, sibling; the employee's spouse's parent, child, or sibling; the employee's child's spouse; grandparents or grandchildren; the employee's domestic partner or the child of a domestic partner; person whom the employee has/had a legal guardian relationship. To the extent allowed by law, OC LAFCO may request documentation from an employee availing themselves of this leave.

The days of bereavement leave do not need to be taken consecutively, however, the employee must complete the bereavement leave within three months of their family member's death, at which time any remaining unused bereavement leave will expire.

Employees may also, with the approval of the Executive Officer, use any available paid leave for additional time off as necessary. If more time off is requested, it will be granted only at the discretion of the Executive Officer. Bereavement pay is calculated based on the base pay rate at the time of absence and prorated for part-time employees.

C. Reproductive Loss Event

All employees who have been employed for OC LAFCO for at least 30 days are entitled to an unpaid leave of absence up to five (5) days in total following a reproductive loss event. Such leave must be taken within three (3) months of the reproductive loss event. If an employee experiences more than one reproductive loss event within a 12-month period, OC LAFCO will grant the employee a cumulative total of up to of 20 (twenty) unpaid days of leave; subject to the limitation that each unpaid leave of absence shall not exceed five (5) days.

A reproductive loss event is defined as: failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. If the employee would have been recognized as a parent if the aforementioned events were successful, the employee will be covered under this definition. This includes the employee, the employee's current spouse or domestic partner, or another individual if the person would have been a parent of a child as a result of the event.

The leave of absence following a reproductive loss event is unpaid, though an employee may elect to utilize any accrued and available paid sick leave, vacation, personal leave, or compensatory time off that is otherwise available to the employee.

D. Jury Duty Leave

OC LAFCO encourages employees to fulfill their civic responsibilities by serving jury duty or appearing in court as a witness when required. OC LAFCO provides 30 days of paid time off at the employee's regular rate of pay for jury duty service provided the employee deposits fees paid for hours of jury duty excluding mileage. For service longer than 30 days, employees may use any accrued vacation leave or receive unpaid leave for jury duty service.

Employees must show the jury duty summons to the Executive Officer as soon as possible so that arrangements may be made to accommodate their absence. Employees are expected to report for work whenever the court schedule permits, including any remaining parts of a normally scheduled workday.

OC LAFCO will continue to provide health insurance benefits for the full term of the jury duty absence. Vacation, sick leave, and holiday benefits will continue to accrue during jury duty leave.

E. Domestic Violence Victim Leave, Sexual Assault or Stalking

OC LAFCO will provide time off to an employee who has been the victim of domestic violence, sexual assault or stalking to seek 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. This includes time off for court proceedings, services from a domestic violence shelter, program or rape crisis center, counseling, medical attention, and participation in safety planning programs. OC LAFCO requires reasonable advance notice of the leave when feasible. If time off is taken due to an emergency, the employee must, within 15 days of the absence, provide OC LAFCO with certification of the need for the leave such as a police report, court order, documentation from a healthcare provider, victims advocate, or counselor.

Employees eligible for paid sick leave benefits under California law may take any such available paid time off, consistent with such law, for the purposes set forth in this policy. For more information, please see the Sick Leave policy. In the event paid sick leave benefits are not available, employees taking leave under this policy may elect to apply accrued and unused vacation to such time.

OC LAFCO prohibits discrimination, discharge, or retaliation against an employee for taking time off or requesting an accommodation under this policy or based on the employee's status as a victim of domestic violence, sexual assault, and/or stalking.

F. Crime Victims' Leave

OC LAFCO will provide time off to an employee to attend judicial proceedings related to a crime, if that employee is a victim of crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim. OC LAFCO requires that, where feasible, in advance of taking leave, the employee provide it with a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice. If advance notice is not possible, the employee is required to provide OC LAFCO with a copy of the notice within a reasonable time.

No employee who is absent from work pursuant to this provision will be discharged or otherwise discriminated against in compensation or other terms, conditions or privileges of employment, because of such absence. Such leave is unpaid. Employees taking leave under this policy may elect to apply vacation time to such leave.

G. Leave for Organ and Bone Marrow Donation

OC LAFCO will grant an employee the following leaves of absence:

1. Bone Marrow Donation:

   A paid leave of absence of up to five business days in any one-year period for the purpose of donating the employee's bone marrow to another person.

2. Organ Donation:

   a. A paid leave of absence of up to 30 business days in any one-year period for the purpose of the employee donating the employee's organ to another person.
   b. An additional unpaid leave of absence, not exceeding 30 business days in a one-year period, for the purpose of the employee donating the employee's organ to another person.

For leaves of absence under this policy that are paid, if an employee has earned and unused sick or vacation time is available, the employee is required to first use up to five days of such paid sick or vacation time for a bone marrow donation and up to two weeks of sick or vacation time for organ donation.

In order to receive a leave of absence pursuant to this policy, the employee must provide written verification to OC LAFCO that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

Any leave taken for the donation of an organ or bone marrow will not constitute a break in service for purposes of the employee's right to salary adjustments, sick leave, vacation, annual leave, or seniority. During any leave taken under this policy, OC LAFCO will maintain and pay for coverage under any group health plan, for the full duration of this leave.

Leave provided under this policy may be taken in one or more periods. Leave taken under this policy will not run concurrently with any leave taken pursuant to the federal Family and Medical Leave Act or the California Family Rights Act.

Upon expiration of a leave of absence authorized by this policy, OC LAFCO will restore the employee to the position held by the employee when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. OC LAFCO may decline to restore an employee because of reasons unrelated to the employee's exercise of rights under this policy.

H. Time Off to Vote

Generally, employees are able to find time to vote either before or after their regular work schedule. If, however, full-time employees are unable to vote in an election during their non-working hours, OC LAFCO will grant up to 2 hours of paid time off to vote.

Employees requiring time off to vote should make their requests at least two working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift, whichever provides the least disruption to the normal work schedule. Employees must submit a voter's receipt on the first working day following the election to qualify for paid time off.

I. Military Leave

Military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Military and Veterans Code Section 394.5. Advance notice of military serve is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable. Employees who have been employed for at least one year are eligible for up to 30 days of paid leave for active-duty training.

Employees on military leave will receive rights and benefits comparable to those they would receive under OC LAFCO's policies for other types of leave. Continuation of health insurance benefits is available based on the length of the leave and subject to the terms, conditions and limitations of the applicable plan for which the employee is otherwise eligible. Employees on leave for no more than 30 days will receive continued health insurance benefits but are responsible for paying their portion of the health care coverage continuation rights. Vacation, sick leave and holiday benefits will continue to accrue during any paid portion of a military leave of absence.

CFRA permits employees to take up to 12 workweeks of unpaid protected leave during a 12-month period for a "qualifying exigency" related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child or parent in the U.S. armed forces. The Federal Family and Medical Leave Act (FMLA) also entitles eligible employees to take leave for a covered family member's service in the Armed Forces. This policy supplements our Family and Medical Leave policy and provides a general notice of employee rights to this leave. Except as stated below, such rights and obligations for service member leave are governed by our existing Family Leave policy. Service member FMLA/CFRA runs concurrent with other leave entitlements provided under federal, state and local law. Service member FMLA provides eligible employees unpaid leave for anyone, or combination of the following reasons:

1. A "qualifying exigency" arising when the employee's spouse, son, daughter or parent, who is a member of the Armed Forces (including National Guard and Reserves), is on covered active duty or has been notified of an impending call to order to covered active duty; and/or

2. 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 healthcare provider.

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.

When leave is to care for an injured or ill service member, an eligible employee may take up to 26 weeks of leave during a single 12-month period to care for a 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.

Where spouses are both employed by OC LAFCO, 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.

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.

J. Military Spouse Leave

Qualified California employees will be given up to 10 days leave during that time in which the employee's spouse or domestic partner is on leave from deployment in a combat zone with the active duty or reserve military or national guard during a period of military conflict. Employees may use accrued vacation time to cover this absence. If the employee has no accrued vacation, the employee must request time off without pay.

Qualifying employees are employees who work an average of 20 hours per week and have a spouse or domestic partner who is serving as (1) a member of the U.S. Armed Forces and who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States or (2) a member of the Armed Forces Reserve Components or the National Guard and has been deployed during a period of military conflict.

Qualifying employees who wish to request this leave must provide OC LAFCO with a written request for such leave within two business days of receiving official notice that the military spouse or domestic partner will be on leave from deployment. The employee must also provide written documentation to OC LAFCO certifying that the military member will be on military leave from deployment.

K. Workers' Compensation Leave

If an employee sustains a work-related injury, he or she will be eligible for a medical leave of absence for a period of disability in accordance with all applicable laws covering occupational injuries.

Where an employee's work-related injury qualifies as a serious health condition, any Workers' Compensation Leave taken will be considered part of his or her entitlement, if any, to leave under the Family and Medical Rights Act ("FMLA") and the California Family Rights Act ("CFRA"). Employees on Workers' Compensation Leave should keep their supervisors informed as to their work status and will need to provide a doctor's release before returning to work.

For more information on how to apply for or obtain workers' compensation information, an employee may contact the County of Orange, Risk Management Department at (714) 285-5511. Additional information may also be found at the following worker's compensation resources:

1. State of CA Department of Industrial Relations Website: https://www.dir.ca.gov/dwc/fileaclaim.htm.
2. Facts for Injured Workers: https://www.dir.ca.gov/dwc/InjuredWorker.htm.

L. Volunteer Emergency Leave and Training

If employees volunteer as a firefighter, reserve peace officer, or emergency rescue personnel, they may be entitled to unpaid leave to perform emergency duty. In addition, they may take unpaid leave of up to 14 days per calendar year for the purpose of engaging in fire or law enforcement training. If an employee qualifies for these types of leave, he or she may use accrued vacation during the leave. Time spent on this leave counts for purposes of determining "length of service." However, vacation will not be accrued, and holiday pay will not be received during this leave.

M. Time Off for Parents to Attend School Activity

Employees, who are parents of one or more children in kindergarten, or in grades 1 through 12, may take time off of up to forty (40) hours per school year to attend authorized school activities which involve one or more of the employee's school age children. To be eligible for parental time off, the employee must obtain from the school, written verification that he or she attended or participated in the school activity. Parental time off may not exceed eight hours in any calendar month.

Employees may use any accrued vacation while they attend their child's school activities. If not, the employee's parental time off will be unpaid. For scheduling purposes, employees must notify the Executive Officer at least one (1) week before the date of the school activity, so that their work duties may be covered.

N. Literacy Education Leave

OC LAFCO will reasonably accommodate employees who are seeking to enroll in an adult literacy education program provided the accommodation requested would not result in undue hardship to OC LAFCO. OC LAFCO does not provide paid time off for participation in an adult literacy education program.

O. Kin Care Leave

Under California state law, employees who accrue sick leave are eligible for Kin Care Leave (KCL). An employee may use KCL for the following reasons:

1. Diagnosis, care, or treatment of an existing health condition of the employee, or preventive care for, an employee or an employee's covered family member.

2. For obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.

3. If the employee is a victim of domestic violence, sexual assault, or stalking, the

employee may take time off to: obtain medical treatment, counseling or other victims' services, obtain or attempt to obtain any relief to help ensure the health, safety, or welfare of the employee or the employee's child, such as a temporary restraining order, restraining order, or other injunctive relief.

The number of days the employee can take off is calculated as an amount not less than the sick leave that would be accrued during 6 months of the employee's then-current rate of entitlement. Employees are able to use up to half of their sick leave for KCL. But, no more than one-half of the employee's annual accrued sick leave benefits can be counted as KCL. For a full-time career employee, for example, this would mean no more than 48 hours of sick leave can be counted as KCL.

To the extent possible, employees must provide reasonable advance notice of their need for leave under this policy. If the need for leave is not foreseeable, an employee must provide notice as soon as practicable.

For purposes of this policy, a family member means as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling.

Please note, leave under this statute runs concurrently with paid sick leave and CFRA/FMLA leave.

P. Alcohol and Drug Rehabilitation Leave

Under California state law, employees who seek time off to voluntarily complete a rehabilitation program are eligible for this leave under this policy.

Employees may take reasonable unpaid leave as long as the leave does not cause OC LAFCO an undue hardship. This leave is unpaid but employees may choose to use available sick leave concurrently with rehabilitation leave.

3.24 FAMILY AND MEDICAL LEAVE

A. Overview

The intent of this policy is to outline and explain some of the rules and requirements applying to the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

Note: Employers with at least 50 employees are required to comply with FMLA, whereas all public employers are required to comply with the CFRA. OC LAFCO does not meet the threshold for FMLA, but by policy provides leave pursuant to the FMLA.

B. Eligibility

Regular full-time and regular part-time employees are eligible to request unpaid Family and Medical Leave under CFRA/FMLA if at the time leave commences, all of the following apply:

1. Must have worked for OC LAFCO for at least twelve (12) months at any time (need not be continuous).

2. Must have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of the leave.

Part-time employees who meet the requirements will calculate Family and Medical Leave on a prorated basis according to the number of hours they are normally scheduled to work.

C. Reasons for Leave

Leave may be requested for any of the following reasons:

1. The birth or adoption of a child, or the placement of a child in foster care.

2. To care for the employee's child (including adult children over 18 years of age, stepchildren and children of a domestic partners), spouse, sibling, registered domestic partner, parent (including parent-in-law), grandchild, grandparent or designated person with a serious health condition. "Designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. OC LAFCO may limit an employee to one designated person per 12-month period for family care and medical leave.

3. A serious health condition that prevents the employee from performing an essential function of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions; or

4. Military spousal, and military caregiver and exigency leave.

Family and Medical Leave is not available for non-serious conditions (including minor illnesses or for voluntary or cosmetic treatments) unless inpatient care is required or for routine preventive physical examinations.

D. Length of Leave

The length of Family and Medical Leave is up to twelve workweeks within a twelve-month period (exception for Pregnancy Disability and Military Caregiver – see policies). The twelve-month period begins the date the leave is taken. There is no carryover of unused leave from one twelve-month period to the next twelve- month period. Holidays that fall during the leave are counted against leave entitlement.

If at the end of twelve weeks the employee is unable to return to work, they may request a personal leave without pay. Such leave is granted at the discretion of OC LAFCO, and there is no requirement to hold the job available during the personal leave. OC LAFCO will, however, be governed by the Americans with Disabilities Act, the California Fair Employment and Housing Act, and Workers' Compensation regulations, if applicable.

E. Intermittent or Reduced Scheduled Leave

Family leave taken for the purpose of birth or placement of a child will generally be granted in minimum amounts of two weeks. However, an employee may request smaller increments of leave time which will be granted on any two occasions and will be subject to OC LAFCO approval for any additional requests based upon business needs.

Family and Medical Leave for the employee's own serious health condition, family care leave for the serious health condition of the employee's child (including adult child over 18 years of age), spouse, sibling, registered domestic partner, child of a registered domestic partner, parent, grandchild, grandparent or designated person and military caregiver leave may be taken intermittently or on a reduced schedule when medically necessary. Where the intermittent or reduced schedule leave is for planned medical treatment, the employee must make an attempt to schedule the treatment so as not to unduly disrupt OC LAFCO's operations. Military exigencies' leave also may be taken intermittently or on a reduced schedule.

If leave is taken intermittently or as a reduced work schedule, the amount of time used under Family and Medical Leave is only the time actually taken. For example, one day of leave per week for an employee who works five days per week is the equivalent of 1/5 of a week of Family/Medical Leave used.

F. Temporary Alternative Positions

An employee may be placed in a temporary alternative position if they request intermittent or reduced schedule leave, or the existing position description may be altered, to better accommodate the employee's need for recurring periods of leave. The alternative position may not have equivalent duties but will receive equivalent pay and benefits. The employee must be qualified for the position. They may also be transferred to a part-time job with the same hourly rate of pay and benefits.

G. Impact on Benefits

Health insurance premiums that are normally paid by OC LAFCO will continue to be paid during Family and Medical Leave for a maximum of twelve workweeks in a twelve-month period. The employee is still responsible for his or her share of the health insurance premiums during the period of leave. If the employee substitutes paid leave for unpaid leave, such payments will be deducted from the employee's pay through payroll deductions. Otherwise, the employee must make arrangements with OC LAFCO to pay for such premiums.

OC LAFCO may recover any health insurance premiums it paid during the leave if the employee fails to pay his or her share of the premiums during the leave or the employee fails to return to work from leave for a reason other than recurrence, continuation, or onset of a serious health condition for which leave under this policy is allowed or other circumstance beyond the employee's control.

Service time, as well as vacation and incidental absence time, will continue to accrue during, but not exceeding, the twelve-week period. Employees will not be paid for holidays if they are in an unpaid status. For Family and Medical Leave of 30 days or less, reviews relating to salary and performance will continue as usual. A salary action which would have ordinarily taken place during the time of the leave will become effective upon the employees return to work. For Family and Medical Leave of over thirty days, Salary and Performance Reviews will be extended equal to the length of the leave.

H. Pregnancy Disability

In addition to the pregnancy disability leave described in this handbook, an eligible pregnant California employee is entitled to up to 12 additional workweeks of CFRA Leave. The maximum time to be taken off is: four months pregnancy disability/FMLA (with a healthcare provider's certification) plus 12 workweeks CFRA.

I. Requesting a Leave

An employee will be asked to provide certification from a health care provider that the leave is medically necessary when requesting a leave for their own health condition. If the health condition is that of a parent, spouse, or child, the healthcare provider must certify that the employee's care is required.

All requests must be provided in writing and include information and a schedule relative to the leave. Employees are requested to give as much advance notice as possible. Thirty (30) days is considered a minimum. In cases of emergency, give as much notice as possible under the circumstances. If the leave schedule is flexible, employees are required to try to schedule the leave so as not to unduly disrupt OC LAFCO's operations.

J. Integration with Paid Leave

Leave provided under FMLA/CFRA is unpaid. However, at the option of OC LAFCO or the employee, accrued vacation (or, Sick Leave where the leave is required due to the employee's serious health condition, or the serious health condition of a family member and Sick Leave would otherwise be permitted under OC LAFCO's policy) may be substituted for any unpaid Family Medical Leave. This designation of Family and Medical Leave will be made by OC LAFCO at the time the employee requests the leave or when OC LAFCO determines that the leave qualifies as Family and Medical Leave based on the information provided. In either case, the total of paid and unpaid leave provided is limited to twelve workweeks.

K. Upon Return from Leave

Employees timely returning from a leave covered under this policy are entitled to reinstatement to the same or equivalent position consistent with applicable law. An employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. OC LAFCO will comply with all applicable laws pertaining to reinstatement of employees including, where required, the reasonable accommodation of employees who have been on an approved leave. OC LAFCO will be governed by the Americans with Disabilities Act, the Fair Employment and Housing Act, CFRA/FMLA, and/or Workers' Compensation regulations where applicable. Family and Medical Leave will not result in the loss of any employment benefit that was earned or entitled to before use of Family and Medical Leave.

Employees using Family and Medical Leave for their own serious medical condition must bring a healthcare provider's release to work upon returning from leave.

PART 5 – CONDUCT AND PROBLEMS

3.25 SAFETY

A. Overview

The intent of this policy is to outline safety expectations.

B. Policy

OC LAFCO is committed to providing a safe and healthy workplace. The safety of every employee is a fundamental consideration for OC LAFCO, and all reasonable precautions will be taken to protect employees from injury. In order to promote safety in the workplace, OC LAFCO expects employees to conduct business and perform their duties in a safety-conscious manner at all times. All work areas must be kept clean, and free of clutter and debris. OC LAFCO also expects all employees to refrain from horseplay and careless behavior in the workplace. Any hazards or potentially dangerous conditions must be corrected promptly and/or reported to a supervisor.

Every employee of the OC LAFCO shall be required to observe all OC LAFCO and departmental health and safety procedures. At the close of each business day, employees must ensure that all equipment is put away. All stationery and miscellaneous supplies should be removed from tables, benches and furniture tops. Paperwork should not be left out overnight. Employees must not litter or discard items on the premises.

If an employee identifies a potentially unsafe condition or risk, the employee should immediately report the matter to their supervisor.

Under California law, in the event of an emergency condition, OC LAFCO will not take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace because the employee has a “reasonable belief that the workplace is unsafe.” The law requires employees to, “when feasible,” notify employers in advance of the emergency condition that requires they either leave the workplace or refuse to report to work. If it’s not feasible, then the employee must notify the employer as soon as possible. “Emergency Condition” for purposes of this policy, is defined as conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act. And, an order to evacuate a workplace, worksite, worker’s home, or the school of a worker’s child due to natural disaster or a criminal act.

“A reasonable belief” for purposes of this policy, is defined as the workplace or worksite is unsafe” means that a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises. The existence of any health and safety regulations specific to the emergency condition and an employer’s compliance or noncompliance with those regulations shall be a relevant factor if this information is known to the employee at the time of the emergency condition or the employee received training on the health and safety regulations mandated by law specific to the emergency condition.

If an employee is injured or becomes ill on the job as a result of performing job-related duties, the following steps will be taken.

- Notify their supervisor, manager or Chair immediately after an injury or symptoms of illness occur.

- Consult a physician within 24 hours after an industrial injury or illness, even if the injury or illness is considered minor. Delay or refusal to seek medical treatment can result in physical as well as compensatory complications. Whenever possible, treatment should be received from an authorized treatment facility as directed to OC LAFCO.
- If the injury requires minor first aid care, there are first aid kits located in the office of Executive Officer and break room. All rules of reporting apply, even though injury is minor and requires only first aid treatment.
- In the event of a life-threatening injury, employees will be taken to the nearest local hospital. The employee or referring agent of OC LAFCO must inform the hospital staff that they are seeking treatment for an industrial injury.
- In the event of a temporary or permanent industrial disability, the employee is entitled to Workers' Compensation Insurance coverage and/or personal long-term disability benefits in accordance with state and federal laws.

Off-Duty Social and Recreational Activities. OC LAFCO may sponsor social or recreational activities for its citizens and employees, both on OC LAFCO property and off-site. Employee attendance at such social activities, however, is completely voluntary and is not work-related. Neither OC LAFCO nor its insurer will be liable for the payment of workers' compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social or athletic activity that is not part of the employee's work-related duties.

3.26 WORKPLACE VIOLENCE POLICY

OC LAFCO recognizes that workplace violence is a concern among employers and employees across the country. OC LAFCO is committed to providing a safe work environment that is free of violence and the threat of violence. OC LAFCO will not tolerate any violent or dangerous behavior of any kind, whether through physical abuse, threats of any kind, intimidation, coercion, stalking or otherwise, defacing OC LAFCO's property or causing physical damage to the facilities, bring weapons or firearms of any kind onto OC LAFCO's premises, parking lots, or while conducting business, or any other behavior that suggests a propensity towards violence. OC LAFCO strictly prohibits employees, consultants, customers, visitors, or anyone else on OC LAFCO premises or engaging in an OC LAFCO-related activity from behaving in a violent or threatening manner. Moreover, OC LAFCO seeks to prevent workplace violence before it begins and reserves the right to address certain behaviors, even in the absence of violent behavior.

Employees may report all incidents of direct or indirect violence or dangerous behavior to the Executive Officer or Assistant Executive Officer as soon as possible. Reporting incidents and concerns early can help prevent a situation from escalating and becoming even more dangerous. Employees should never attempt to handle a potentially dangerous situation by themselves. Any OC LAFCO employee that violates this policy will be subject to discipline, up to and including termination, as well as potential legal action.

OC LAFCO believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs. Any such instances should be immediately reported to the Executive Officer or General Counsel.

Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the worksite, ranging from threats and verbal abuse to physical assaults and even homicide, that can affect and involve employees, clients, customers and visitors. If any employee observes or becomes aware of any workplace violence related actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify the Executive Officer or Assistant Executive Officer or General Counsel immediately. Further, employees should notify the Executive Officer or Assistant Executive Officer or General Counsel if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace. General examples of prohibited conduct include, but are not limited to the following:

1. The actual or implied threat of harm to an individual, group of individuals, or relatives of those individuals, or the property of any of them, made in person, over the telephone, through the mail, by electronic communication, or by other means.

2. Fighting or challenging another individual to a fight.

3. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.

4. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, or other correspondence.

5. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of OC LAFCO.

6. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for their safety, or the safety of their immediate family, as defined in Civil Code section 1708.7.

7. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.

8. The possession, on OC LAFCO leased or owned property or facilities, of weapons of any kind (including toy or look-alike), unless specifically authorized by the Police Department or appointing authority, or the brandishing of any object in a threatening manner towards another.

9. Loud, disruptive or angry behavior or language which is clearly not part of the typical work environment.

10. Blatant or intentional disregard for the safety or well-being of others.

11. Willful destruction of OC LAFCO's or others personal property.

12. Commission of a violent felony or misdemeanor on OC LAFCO's property.

13. Any other act that a reasonable person would perceive as constituting an act or threat of violence.

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, OC LAFCO will inform the reporting individual of the results of the investigation. To the extent possible, OC LAFCO will maintain the confidentiality of the reporting employee and of the investigation. OC LAFCO may, however, need to disclose results in appropriate circumstances, for example, in order to protect individual safety. OC LAFCO will not tolerate retaliation against any employee who reports workplace violence.

If OC LAFCO determines that workplace violence in violation of this policy has occurred, OC LAFCO will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, reassignment of responsibilities, suspension, or termination. If the violent behavior is that of a non-employee, OC LAFCO will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

Under certain circumstances, OC LAFCO may forego disciplinary action on the condition that the employee takes a medical leave of absence. In addition, OC LAFCO may request that the employee participate in counseling, either voluntarily or as a condition of continued employment.

Immediate Danger: Any employee, who is subjected to, witnesses, or has knowledge of actions that pose an immediate danger to himself/herself or others must report these acts to appropriate authorities immediately. When the incident constitutes an emergency, the employee should place themselves in a safe location, notify their supervisor and/or obtain police assistance by calling 911. Information provided to the emergency dispatcher should include details regarding the exact location and the nature of the incident and the persons and/or weapons involved.

After the incident has been reported to the police the employee should notify their supervisor. The supervisor shall be responsible for contacting the Executive Officer.

The primary objective in dealing with an incident in progress is to stabilize the situation, deescalate the potential for violence, and ensure that there is no harm to any person or property. Once the emergency has passed the supervisor shall be responsible for conducting a thorough investigation of the incident and reporting the findings to the Executive Officer. All employees are required to cooperate fully in any administrative or criminal investigation.

Potential or Suspected Future Incidents: When an employee becomes aware of a potential violation of this policy that does not pose an immediate threat of violence, the employee is responsible for notifying their supervisor. Even without an actual threat, employees should also report any behavior that they may regard as threatening or violent when the behavior is job-related or might be carried out within the OC LAFCO workplace. It will then become the responsibility of the supervisor to prepare a report for the Executive Officer. This report will be evaluated to determine whether there was a violation of the policy and what the appropriate management response should be.

Employees who have reason to believe they or any OC LAFCO employee may be the subject of a future violent act in the workplace or as a result of their OC LAFCO employment, should immediately notify their supervisor.

No employee who, acting in good faith, initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

3.27 DRUG AND ALCOHOL POLICY

A. Overview

The intent of this policy is to provide a drug and alcohol-free work environment for all OC LAFCO employees.

B. Policy

It is OC LAFCO's desire to provide a drug-free, healthful, and safe workplace. _To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on OC LAFCO's premises or while conducting business-related activities off OC LAFCO's premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation of treatment program. Such violations may also have legal consequences.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. They may also wish to discuss these matters with the Executive Officer or Assistant Executive Officer to receive assistance or referrals to appropriate resources in the community.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to participate in a rehabilitation or treatment program through OC LAFCO's health insurance benefit coverage. Leave may be granted if the employee agrees to abstain from use of the problem substance; abides by all OC LAFCO's policies, rules and prohibitions relating to conduct in the workplace; and if granting the leave will not cause OC LAFCO any undue hardship. Please see OC LAFCO's Alcohol and Drug Rehab Leave Policy for more detail.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify OC LAFCO of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

3.28 DESK INSPECTION POLICY

A. Overview

The intent of this policy is to assist in the understanding of the usage of E-mail, the Internet, computer files and software.

B. Policy

Although desks, cabinets and shelves are made available for the convenience of employees while at work, employees should remember that all desks, cabinets and shelves remain the sole property of OC LAFCO. Moreover, OC LAFCO reserves the right to open and inspect desks, cabinets, and shelves, as well as any contents, effects, or articles in desks, cabinets, and shelves. Such an inspection can occur at any time, with or without advance notice or consent. An inspection may be conducted before, during, or after working hours by the Executive Officer or Assistant Executive Officer or designee. Employees have no expectation of privacy in any of these items.

Prohibited materials, including weapons, explosives, alcohol and non-prescribed drugs or medications, may not be placed in a desk, cabinet or shelf. Employees who, if requested, fail to cooperate in any inspection will be subject to disciplinary action, up to and including termination. OC LAFCO is not responsible for any articles that are placed or left in a desk, cabinet, or shelf that are lost, damaged, stolen or destroyed.

3.29 THEFT OR LOSS OF OFFICE EQUIPMENT

A. Overview

The intent of this policy is to outline procedures in the event OC LAFCO office equipment is lost or stolen.

B. Policy

The use of any OC LAFCO-related equipment (computers, cell phones, iPads, projectors, or other office-related equipment) outside of the OC LAFCO offices must be approved by the Executive Officer. OC LAFCO employees are fully responsible for the care and safekeeping of all office equipment offsite. Should an item be stolen or lost offsite while under the care of an OC LAFCO employee, the OC LAFCO employee is responsible to reimburse OC LAFCO for the replacement cost of all lost or stolen items.

The care and safekeeping of an iPad provided to a Commissioner for OC LAFCO- related business is the sole responsibility of the Commissioner. Any loss or theft of the iPad must be reported immediately to the Executive Officer, and the Commissioner is responsible to reimburse OC LAFCO for the replacement cost of the device.

3.30 PROBLEM RESOLUTION PROCEDURE

A. Overview

The intent of this policy is to outline OC LAFCO's problem resolution procedure.

B. Policy

OC LAFCO is committed to encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response. OC LAFCO strives to ensure fair and honest treatment of all employees. All employees are expected to treat each other with mutual respect. All employees are encouraged to offer positive and constructive criticism.

If there is a disagreement concerning established rules of conduct, policies, or practices, employees may express their concerns through the problem-resolution procedure. No one will be penalized, formally or informally, for voicing a complaint with OC LAFCO in a reasonable, business-like manner, or for using the problem-resolution procedure.

If a situation occurs where an employee believes that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps:

1. Employee presents problem to the Assistant Executive Officer after incident occurs. If the Assistant Executive Officer is unavailable or an employee believes it would be inappropriate to contact the person, employee may present problem to the Executive Officer.

2. The Assistant Executive Officer responds to the problem during discussion or after consulting with the Executive Officer, when necessary, and documents discussion.
3. Employee presents problem to the Executive Officer in writing if problem is unresolved.

The Executive Officer reviews and considers the problem. The Executive Officer informs the employee of decision and forwards a copy of the written response to the employee's file. The Executive Officer has full authority to make any adjustment deemed appropriate to resolve the problem.

Originally Adopted: 1/8/2003
Last Reviewed: ~~09/11/2024~~03/12/2025
Last Revised: ~~09/11/2024~~03/12/2025

Personnel Policies and Procedures
of the
Orange County Local Agency Formation Commission

PART 1 – EMPLOYMENT

3.1 EMPLOYEE ACKNOWLEDGEMENT FORM

PLEASE READ THE FOLLOWING POLICIES AND PROCEDURES, FILL OUT AND RETURN THIS PORTION TO THE OC LAFCO COMMISSION CLERK OR IMMEDIATE SUPERVISOR WITHIN FIVE BUSINESS DAYS.

I acknowledge that I have received and read a copy of the Orange County Local Agency Formation Commission ("OC LAFCO") employee policy and procedures and understand all the policies, guidelines, and procedures stated within. I understand that I am responsible for reading these policies and for knowing and complying with the policies set forth herein during my employment with OC LAFCO.

Additionally, I specifically acknowledge that I have read and understand the following policies: Equal Employment Opportunity, Timekeeping, Overtime Pay, and Policy Against Harassment, Discrimination, and Retaliation.

The personnel policies and procedures describe important information about OC LAFCO, and I understand that I should consult the OC LAFCO Executive Officer regarding any questions I might have. I have entered into my employment relationship with OC LAFCO voluntarily and acknowledge that there is no specific length of employment. Accordingly, either I or OC LAFCO can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law. Furthermore, I acknowledge that these policies and procedures are not a contract of employment.

I understand and agree that the terms of this Acknowledgment may not be modified or superseded except by a written agreement signed by me and the OC LAFCO Executive Officer, that no other employee or representative of OC LAFCO has the authority to enter into any such agreement, and that any agreement to employ me for any specified period of time or that is otherwise inconsistent with the terms of this Acknowledgment will be unenforceable unless in writing and signed by myself and the OC LAFCO Executive Officer. I further understand and agree that if the terms of this Acknowledgment are inconsistent with any guideline or practice of OC LAFCO now or in the future, the terms of this Acknowledgment shall control.

Since the information, policies, and benefits described herein are necessarily subject to change, I acknowledge that revisions to them may occur, except to OC LAFCO's policy of employment-at-will. I understand that OC LAFCO reserves the right to modify, supplement or rescind any or all of its policies whenever it deems necessary or useful to do so, at any time with or without notice.

I have carefully read this Acknowledgement Form.

____

EMPLOYEE'S NAME (printed)

____

EMPLOYEE'S SIGNATURE

____

DATE

DISCLAIMER

THESE POLICIES AND PROCEDURES ARE NOT DESIGNED TO EXPLAIN EVERY EMPLOYMENT SITUATION OR OUTLINE EVERY RELEVANT POLICY OR PRACTICE. THESE POLICIES AND PROCEDURES ARE NOT INTENDED TO CONSTITUTE AN EMPLOYMENT CONTRACT OR A GUARANTY OF FUTURE EMPLOYMENT. EMPLOYMENT WITH OC LAFCO IS "AT-WILL." THESE POLICIES AND PROCEDURES SUPERSEDE ANY AND ALL WRITTEN DOCUMENTS OR ORAL REPRESENTATIONS THAT CONTRADICT THE AT-WILL NATURE OF YOUR EMPLOYMENT, EXCEPT WHERE EXPRESSLY SUPERSEDED BY CONTRACT.

OC LAFCO RESERVES THE RIGHT TO REVISE, MODIFY, DELETE, OR ADD TO ANY AND ALL POLICIES, PROCEDURES, WORK RULES, OR BENEFITS STATED IN THESE POLICIES AND PROCEDURES OR IN ANY OTHER DOCUMENT, EXCEPT FOR THE POLICY OF AT-WILL EMPLOYMENT. ANY CHANGES TO THESE POLICIES AND PROCEDURES WILL BE DISTRIBUTED IN WRITING TO ALL EMPLOYEES SO THAT EMPLOYEES MAY BE AWARE OF THE NEW POLICIES.

3.2 AT-WILL EMPLOYMENT

A. Overview

The intent of this policy is to establish the At-Will-Employment Policy of OC LAFCO.

B. Policy

Employment at OC LAFCO is and shall be at all times on an at-will basis at all phases of employment. That means that either OC LAFCO or an employee may terminate an employee's employment at any time, for any reason, with or without cause or advance notice. The employment relationship between OC LAFCO and its employees is for an unspecified term and may be terminated by the employee, or OC LAFCO Executive Officer or the Commission of OC LAFCO ("Commission") at any time, with or without cause or advanced notice. Also, OC LAFCO reserves the right to transfer, demote, suspend, or administer discipline with or without cause or advance notice.

None of the policies, procedures, or contents of this herein is intended to create any contractual obligations which in any way conflict with OC LAFCO's policy of At-Will-Employment. The at-will relationship can only be modified by a written agreement signed by the employee and the OC LAFCO Executive Officer.

3.3 EQUAL EMPLOYMENT OPPORTUNITY POLICY

A. Overview

The intent of this policy is to establish the Equal Employment Opportunity Policy of OC LAFCO.

B. Policy

OC LAFCO is strongly committed to providing equal opportunity to all employees and applicants for employment. OC LAFCO does not discriminate on the basis of race (including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists), color, religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship status, age (40 years and older), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity and expression (including transgender identity and expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning (or is perceived to be transitioning), sexual orientation, sex stereotyping, marital status, domestic partner status, reproductive health decision making (protected under §12920 of the Government Code in California), military service and veteran status, physical and/or mental disability (including HIV and AIDS), legally protected medical condition or information (including genetic information,) protected medical leaves (requesting or approved), status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws. Any such discrimination is unlawful and all persons involved in the operations of OC LAFCO are prohibited from engaging in this type of conduct. OC LAFCO strictly prohibits the harassment of any individual on any basis listed above (see the Policy Against Harassment for further clarification).

OC LAFCO prohibits unlawful harassment, discrimination, and retaliation based on:

1. Any combination of the above characteristics;
2. A perception that the person has any of the above characteristics or any combination of those characteristics;
3. A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics of any combination of the above characteristics.

This policy applies to all employment practices, including recruitment, advertising, job application procedures, hiring, placement, firing, advancement, compensation training, benefits, transfers, social and recreational programs, and any other terms, conditions and privileges of employment.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Executive Officer or his/her designee or Chair of the Commission or General Counsel. To ensure our workplace is free of artificial barriers, violation of this policy including any improper retaliatory conduct will lead to discipline, up to and including discharge. All employees must cooperate with all investigations conducted pursuant to this policy.

An employee who believes that he or she has been subjected to any form of unlawful discrimination should make a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission or General Counsel. Complaints should be specific and should include the names of individuals involved and the names of any witnesses. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. If OC LAFCO determines that unlawful discrimination has occurred, effective remedial action will be taken to determine any future discrimination.

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Commitment Policy or the Policy against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

3.4 LACTATION ACCOMMODATION

OC LAFCO provides accommodations to lactating employees who need to express breastmilk during work hours in accordance with applicable law. OC LAFCO will provide a room or other location (not a bathroom) for employees to express breastmilk in private.

OC LAFCO will ensure that the lactation room or location will:

1. Be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk.
2. Be clean, safe and free of hazardous materials.
3. Contain a surface to place a breast pump and other personal items.
4. Contain a place to sit.
5. Have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery powered breast pump.

In addition, OC LAFCO will provide access to a sink with running water and a refrigerator suitable for storing milk (or other cooling device suitable for storing milk) in close proximity to an employee's workspace. In the event that more than one employee needs use of the lactation room, OC LAFCO will discuss alternative options with the employees to determine what arrangement addresses their needs, such as finding an alternative space or creating a schedule for such use.

OC LAFCO shall also provide a reasonable amount of break time for an employee to express any breast milk each time that she needs to do so. The break time, if possible, should run concurrently with any break time already provided to the employee. Break time for a nonexempt employee that does not run concurrently with rest time already authorized for the employee is unpaid. However, if the employee performs any work during such break, she must accurately record all time worked and OC LAFCO will compensate her for such time.

Employees who are nursing have a right to request a lactation accommodation. Such requests may be made verbally or in writing, should indicate the need for the accommodation in order to express breastmilk at work, and should be directed to OC LAFCO's Executive Officer. OC LAFCO shall respond to such requests in a reasonable manner, not exceeding five business days. If OC LAFCO cannot provide break time, location, or other reasonable accommodations in accordance with this policy, it will inform the requesting employee in writing. Because lactation accommodation needs may change over time, employees may request changes to existing accommodations by a written request to OC LAFCO's Executive Officer that describes the nature of the change that is requested.

OC LAFCO prohibits any form of retaliation or discrimination against an employee for exercising or attempting to exercise any rights provided under the above policies. Any such conduct or violations of the above-referenced policies should be reported to OC LAFCO's Executive Officer. Employees also have the right to file a complaint with the California Labor Commissioner for violation of a lactation accommodation right described in the policy above.

3.5 REASONABLE ACCOMMODATION

A. Overview

The intent of this policy is to establish the Reasonable Accommodation Policy of OC LAFCO.

B. Policy

To carry out OC LAFCO's commitment to providing equal opportunity for all employment applicants and employees, OC LAFCO will provide reasonable accommodations, including as required under applicable laws, in accordance with this policy. As previously stated, no program or activity administered by the employer shall exclude from participation, deny benefits to or subject to discrimination any individual based on an employee's actual or perceived disability or based on an employee's association with someone who has an actual or perceived disability.

Reasonable Accommodation to Disability and Religion: OC LAFCO will provide reasonable accommodations for applicants and employees with disabilities in accordance with the American with Disabilities Act (the "ADA") and California law, and for applicants and employees based on their sincerely held religious beliefs, practices, or observance under state and federal law. An employment applicant or employee who seeks a reasonable accommodation in order to perform essential job functions should make such a request in writing to the attention of the OC LAFCO Executive Officer or his/her designee. The request must identify (a) the job-related functions at issue; and (b) the desired accommodation(s). Following receipt of the request, the Executive Officer or his/her designee may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform their essential functions (or the applicant's ability to perform the essential functions of a desired position) but will not require disclosure of diagnosis or genetic history.

OC LAFCO will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, OC LAFCO will examine potential reasonable accommodations that will make it possible for the employee or applicant to perform the essential functions of the position. Such interactive process will include a meeting with the employee or applicant, OC LAFCO's designated representative(s), and, if necessary, the employee or applicant's health care provider. OC LAFCO will determine, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of reasonable accommodation(s) to provide. OC LAFCO will not provide an accommodation that would impose an undue hardship upon OC LAFCO or that is not required by law. OC LAFCO will inform the employee or applicant of any decisions made under this section in writing.

Reasonable Accommodations Relating to Pregnancy: OC LAFCO will provide reasonable accommodations to employees who are affected by a pregnancy, childbirth, or related medical conditions, as medically advisable. Such accommodations may consist of:

1. Modified work duties or a modified schedule to permit earlier or later hours or more frequent breaks; stools, chairs or other furniture; modified or acquired equipment or devices; reduced work hours; or other accommodations.

2. Temporary transfers to a less strenuous or less hazardous position if such transfer can be reasonably accommodated.

3. A "Pregnancy-Related Disability Leave" if the employee is disabled by pregnancy, as described in OC LAFCO's leave of absence policy.

Employees seeking a pregnancy-related accommodation, including transfer under this policy, should notify OC LAFCO's Executive Officer or Assistant Executive Officer. This notice must be timely and be provided by employees in advance when the need for reasonable accommodation is foreseeable; in all other circumstances, notice must be provided as soon as practicable. Failure to give advance notice when the need is foreseeable may delay the reasonable accommodation or transfer until 30 days after the date the employee provides notice (unless such delay would endanger the health of the employee, her pregnancy or her coworkers).

Reasonable Accommodations for Victims of Domestic Violence, Stalking, or Sexual Assault: OC LAFCO will also provide reasonable accommodations for an employee who is the victim of domestic violence, stalking or sexual assault if: (i) the employee has disclosed that status to OC LAFCO, and (ii) the employee requests an accommodation for the employee's safety while at work.

In such circumstances, OC LAFCO will engage, in good faith, in a timely and interactive process with the employee to determine an effective reasonable accommodation. In this process, the employee may be asked to provide: (i) a written statement, signed by the employee or someone acting on the employee's behalf, certifying that the accommodation is for the purposes stated above, and (ii) a certification confirming the employee's status as a victim of domestic violence, sexual assault or stalking. Six months after the date of each previous certification, OC LAFCO may request a recertification of such status. OC LAFCO will maintain any such certification as confidential if it identifies the employee as a victim of domestic violence, sexual assault or stalking, disclosing such information only as required by law, or as needed to protect the employee's workplace safety, and with prior notice of such disclosure to the employee.

Retaliation and Discrimination Prohibited: OC LAFCO prohibits discrimination, discharge, retaliation, or any other unlawful acts against an individual because such person requests or receives an accommodation under this (or another applicable) policy, or because such individual engaged in any other conduct protected by the law. Additionally, as addressed in OC LAFCO's separate policy on harassment, discrimination and retaliation, OC LAFCO prohibits unlawful harassment, discrimination or retaliation against any employee on the basis of an individual's disability, religion, religious creed, sex (including pregnancy, childbirth and related medical conditions), status as a victim of domestic violence, sexual assault or stalking, or any other status as protected by law.

3.6 POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

A. Overview

The intent of this policy is to establish the Policy Against Harassment for OC LAFCO.

B. Policy

OC LAFCO is committed to providing a professional workplace in which individuals are treated with respect and in a manner consistent with OC LAFCO's high expectations of ethical conduct. This necessarily means that OC LAFCO prohibits unlawful harassment, discrimination, and retaliation in accordance with applicable laws. OC LAFCO prohibits and will not tolerate harassment of employees, applicants, or persons providing services pursuant to a contract based on factors such as sex (which includes harassment based on sex, pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions), as well as harassment, discrimination, and retaliation based on such factors as race (including hair texture, protective hairstyles such asbraids, locs, and twists and other traits associated with race), color, religion and religious creed (including religious dress and religious grooming practices), 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 or is (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 National Labor Relations Act or California Fair Pay Act, requesting a reasonable accommodation on a protected basis such as disability or sincerely-held religious belief, practice, or observance, or any other characteristic protected by federal, state, or local laws.

OF LAFCO prohibits unlawful harassment, discrimination, and retaliation based on:

1. Any combination of the above characteristics;
2. A perception that the person has any of the above characteristics or any combination of those characteristics;
3. A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics of any combination of the above characteristics.

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

C. Definition

Harassment is generally defined as verbal, physical, or visual conduct that creates an intimidating, offensive, or hostile working environment, or that interferes with an employee's work performance, and that is based on a protected status. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

As the definition above shows, harassing conduct can take many forms and may include, but is not limited to, the following (when based upon an employee's protected status as noted above): slurs, jokes, statements, gestures, assault, impeding or blocking another's movement or otherwise physically interfering with normal work, pictures, drawings, or cartoons, violating someone's "personal space," foul or obscene language, leering, stalking, staring, noises, unwanted or offensive letters or poems, offensive emails, texts, gifs, memes, or voicemail messages.

Prohibited unlawful harassment includes, but not limited to, the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments.

2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawing or gestures.

3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race or any other protected basis.

4. Threats, demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss, and offers of employment benefits in return for sexual favors.

D. Reporting and Complaint Procedure

<u>Internal Reporting</u>

Any incidents of discrimination, harassment, or retaliation, including work-related harassment by any OC LAFCO personnel or any other person, or any conduct believed to violate this policy should promptly submit a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission and General Counsel. It is the responsibility of all of us to contribute to a work environment that is free of unlawful bias, discrimination, harassment, and retaliation. Failure to bring forth a complaint prevents OC LAFCO from having the opportunity to correct the situation.

Managers and supervisors have a special responsibility under this policy. All levels of management and all supervisors are responsible for compliance with this Policy Against Harassment, Discrimination, and Retaliation and for ensuring that everyone in their department is aware of, understands and adheres to this policy. Supervisors and managers who receive complaints or who observe or learn of discriminatory, harassing, or retaliatory conduct must immediately inform the Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, so that an investigation may be initiated.

Complaints should be specific and include the names of individuals involved and names of any witnesses. Individuals making such complaints must report the facts as accurately and as completely as possible. Every reported complaint of harassment, discrimination, and retaliation is taken seriously by OC LAFCO. Every reported complaint, including allegations of misconduct, will be investigated thoroughly and promptly by impartial and qualified personnel. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. OC LAFCO will maintain confidentiality to the extent possible. If OC LAFCO determines that unlawful harassment has occurred, effective remedial action will be taken commensurate with the severity of the offense, up to and including termination. Appropriate action will also be taken to deter any future unlawful harassment.

Typically, the investigation will include the following steps: an interview of the employee who lodged the complaint to obtain complete details regarding the alleged harassment, discrimination, or retaliation; interviews of anyone who is alleged to have engaged in such conduct to respond to the claims; and interview of any employees who may have witnessed, or who may have knowledge of, the alleged conduct. The Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, will notify the employee who lodged the complaint of progress during the investigation, including documentation where applicable, and timely notification of the results of the investigation. The investigation will be handled in as confidential a manner as possible consistent with a fair, timely, and thorough investigation (e.g., parties will receive appropriate due process, OC LAFCO will reach reasonable conclusions based on the evidence collected, etc.). Employees (or other complainants) making complaints are expected to cooperate fully with the person or persons designated to investigate the complaint.

OC LAFCO prohibits conduct severe enough to be unlawful. Yet even more, OC LAFCO's workplace conduct standards also prohibit conduct and comments which are not severe enough to violate state or local or federal law—but which are still inappropriate in the workplace. For example, OC LAFCO prohibits abusive conduct in the workplace—whether or not it is based on a protected category. As a result, OC LAFCO will take prompt, appropriate, and effective corrective action (e.g., remedial measures) any time it is established that discrimination, harassment, or retaliation in violation of this policy has occurred—whether or not such violation also violates the law.

Corrective action may include, for example: training, referral to counseling, or disciplinary action ranging from a verbal or written warning to termination of employment, depending on the circumstances.

External Reporting

In addition to OC LAFCO internal complaint procedure, an employee may file an external complaint by contacting the following:

1. Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] at 800-884-1684 or visiting https://calcivilrights.ca.gov/contactus/.

2. Equal Employment Opportunity Commission (EEOC) at 800-669-4000 or visiting [https://www.eeoc.gov/contact-eeoc.](https://www.eeoc.gov/contact-eeoc)

OC LAFCO will not tolerate retaliation against an individual for good faith reports of harassment, discrimination, or retaliation; assisting another in making a report; cooperating in an investigation; filing an administrative complaint with a government agency; or engaging in other protected activity. Such retaliation is a separate violation of the law and of OC LAFCO policy and is subject to disciplinary action up to employment termination. Individuals who believe they have experienced or been threatened with such retaliation, and any manager or supervisor who learns of possible retaliation, must immediately report it using the same Complaint Reporting Process above.

E. Sexual Harassment and Sexual Harassment Prevention Training

Sexually harassing conduct in particular may include all of the above prohibited actions, as well as other unwelcome conduct, such as requests for sexual favors, conversation containing sexual comments, and other unwelcome sexual advances. For example, sexual harassment can be:

- Verbal: sexual innuendoes, sexually suggestive or degrading comments, text messages, gifs, memes, sexual jokes or slurs, graphic commentaries about a person's body, or repeated sexual advances or invitations.

- Nonverbal: displaying sexually suggestive objects, pictures, cartoons, magazines, calendars or posters, or making suggestive or insulting sounds, leering, whistling, or obscene gestures.

- Physical: offensive touching, brushing against a person's body, unwanted hugging or kissing, or impeding or blocking a person's normal movement.

Sexually harassing conduct may arise if a reasonable person subjected to the conduct would find that the harassment so altered working conditions as to make it more difficult to do that person's job. Sexually harassing conduct can occur regardless of the sex, sexual orientation, or gender identity of the harasser or of the person being harassed. Sexually harassing conduct need not be motivated by sexual desire to be violate of this policy.

All non-managerial employees must attend a one-hour Sexual Harassment Prevention Training, and all managerial employees must attend a two-hour Sexual Harassment Prevention Training. All OC LAFCO employees will be required to attend a sexual harassment prevention training every two years as assigned by Administration. Managers will receive two hours of training every two years as assigned by Administration. Staff may be required to attend additional anti-harassment or other sensitivity trainings in regard to any protected class. OC LAFCO employees may refer to the Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] sexual harassment prevention online training course appropriate for their position. You may also visit https://calcivilrights.ca.gov/ to access the online training courses.

F. Retaliation

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Policy or the Policy Against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith. An employee who believes that he or she has been subjected to any form of unlawful retaliation should promptly make a complaint, preferably written, in the same manner as described above. Complaints of harassment will be investigated, and appropriate action will be taken to protect OC LAFCO employees from any form of unlawful retaliation.

3.7 PERFORMANCE MANAGEMENT

A. Overview

The intent of the performance review process is to create a supportive, safe, professional performance review process and an environment that optimizes the employee's ability to receive and actualize constructive performance feedback and that motivates the employee to authentically and actively pursue personal and professional growth/excellence.

B. Performance Review Policy – General Employees

A review and discussion of each employee's performance is conducted to:

1. Ensure assigned projects/tasks are completed at an acceptable level of quality to effectively serve the mission, vision, and values of the agency.

2. Plan for maximizing employee performance to serve the agency's needs.

3. Motivate and assist employees in achieving their personal growth and career objectives.

C. Performance Review Procedure – General Employees

The discussion of job performance and goals on an informal, weekly basis is strongly encouraged. The formal employee performance review process will include: *Assessment of Employee Job Performance* – At the beginning of the fiscal year, both the employee and supervisor will complete an assessment of his/her job performance. The assessment will include a summary of projects/tasks completed and a well-organized, clear and in-depth self- analysis of job performance as related to projects/tasks.

1. *Assessment of Employee Professional Strengths and Weakness* – Both employee and supervisor will prepare an individual written statement of employee's professional and personal strengths and weaknesses as they relate to the work environment.

2. *Discussion of Employee Assessments* – Following preparation of the assessments (job performance and professional strengths and weaknesses), a meeting will be convened with the employee/supervisor to compare, contrast and discuss assessments/statements and identify areas for goal setting.

3. *Development of Discussion of Goals* – Based upon discussion with supervisor, employee prepares draft annual goals for discussion and review with the Assistant Executive Officer and/or Executive Officer. Goals should be specific, concise, measurable and represent commitment to professional growth.

4. *Finalization of Goals and Performance Review* – Following goal development, a meeting will be convened involving employee/Assistant Executive Officer/Executive Officer to jointly discuss and finalize employee goals. The employee will be responsible for preparing the final, agreed to written goals and submitting them to supervisor.

Performance reviews will be completed for all General Employees by no later than the end of the first quarter of each fiscal year.

While merit-based pay adjustments are awarded by OC LAFCO in an effort to recognize truly superior employee performance, positive performance evaluations do not always guarantee increases in salary or promotions. Salary increases, and promotions are solely within the discretion of OC LAFCO and depend on many factors in addition to performance. Pay increases or bonuses will be tied to the accomplishment of specific established employee goals.

After receiving their review an employee will be required to sign the evaluation report acknowledging that it has been presented and discussed between the employee and the Assistant Executive Officer or the Executive Officer. OC LAFCO's provision of performance evaluations does not alter the at will employment relationship.

D. Policy for Executive Officer Performance Evaluation Process (Adopted March 13, 2024)

1. As part of the performance evaluation process, the Executive Officer will prepare a year-end report summarizing the status and accomplishments of the goals and objectives included in the agency's three-year strategic/work plan adopted by the Commission.

2. The Executive Officer will complete a self-evaluation indicating his/her performance relative to the adopted goals and objectives.

3. The Chair or his/her designee will provide each Commissioner with the Executive Officer's self-evaluation and a blank evaluation form for that Commissioner's completion prior to the full Commission closed session performance discussion.

4. The Chair or his/her designee will lead the Commission's closed session discussion on the Executive Officer's performance, soliciting feedback and input from all Commissioners.

5. The Chair will be given financial parameters for negotiating compensation with the Executive Officer and delegated authority to represent the Commission in compensation discussions with the Executive Officer.

6. The Chair and his/her designee, if applicable, will meet with the Executive Officer to provide the Commission's feedback, sentiments of the discussion and to negotiate compensation.

7. The Chair will report back to the Board to close out the Executive Officer Evaluation Process and work with General Counsel to prepare any necessary agenda items and public action required to complete the process.

8. The Executive Committee will meet with the Executive Officer as warranted to check on the progress of the strategic/work plan and discuss any necessary adjustments for discussion with the full Commission.

3.8 PERSONNEL RECORDS

A. Overview

The intent of this policy is to clarify the guidelines for treatment of employee personnel records and information.

B. Policy

OC LAFCO maintains a personnel file on each employee. An employee's personnel file will contain only material that OC LAFCO determines is necessary and relevant to the administration of OC LAFCO's personnel program. Personnel files are the property of OC LAFCO, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

Employees have the right to inspect certain documents in their personnel file, as provided by law, in the presence of an OC LAFCO representative at a mutually convenient time. Employees may add written versions of any disputed item to their file. OC LAFCO will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy or jeopardize the safety of OC LAFCO personnel.

OC LAFCO will attempt to restrict disclosure of an employee's personnel file to authorized individuals within the organization. Any request for information from the file must be made to the Executive Officer or specific designee. Only the Executive Officer or specific designee is authorized to release information regarding current or former employees. Disclosure of personnel information to outside sources will be limited to the extent allowed by law. However, OC LAFCO will cooperate with requests from authorized law enforcement or local, state or federal agencies conducting official investigations, with validly issued subpoenas and as otherwise required by law or legal proceeding to be released.

3.9 TERMINATION

A. Overview

The intent of this policy is to explain the types of termination and OC LAFCO's procedures for processing terminations.

B. Policy

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated.

1. Voluntary Resignation

An employee who voluntarily resigns his/her employment is asked to prepare a written letter of resignation informing OC LAFCO of the intended resignation date. Although not required, employees who voluntarily resign are asked as a courtesy to give OC LAFCO at least two weeks' notice prior to the resignation date in order to provide time to search for an adequate replacement if necessary and to ensure a smooth transition.

An employee is also considered to have voluntarily terminated employment by failing to report to work for three consecutive scheduled workdays without notice, or without prior approval by the Executive Officer or Assistant Executive Officer.

2. Discharge

The violation of the policies and procedures of OC LAFCO or any other illegal acts may result in disciplinary action up to and including termination. Disciplinary actions may include verbal and written warnings, suspension, probationary periods, and termination of employment, depending on the conduct involved. OC LAFCO maintains its at-will status. OC LAFCO reserves the right to utilize any form of disciplinary action, up to and including termination, at any stage it deems appropriate, depending on the circumstances.

C. Exit Interview

OC LAFCO will generally schedule exit interviews at the time of employment termination. The exit interview will provide an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to OC LAFCO, or return of property owned by OC LAFCO. Suggestions, complaints, and questions are encouraged. Employees will receive their final pay in accordance with applicable state law.

D. At-Will Employee

Because employment with OC LAFCO is based on mutual consent, both the employee and OC LAFCO have the right to terminate employment at will, with or without cause, at any time. Nothing in this termination policy changes the At-Will Employment policy of OC LAFCO.

E. Benefits

Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable upon termination will be paid in accordance with applicable state law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued, and of the terms, conditions and limitations of such continuance.

PART 2 – SALARY AND WAGE ADMINISTRATION

3.10 HIRING AND STAFFING

A. Overview

The intent of this policy is to provide guidelines on the hiring and staffing practices of OC LAFCO.

B. Policy

To attract and retain qualified staff for OC LAFCO, it is the policy of OC LAFCO to use a criterion-based recruitment process and behavioral-based interview process to ensure the most qualified candidates are hired.

C. Recruiting

Recruiting applicants will be aggressive enough to assure an adequate supply of qualified candidates. The recruitment process may include, but is not limited to, the use of professional recruitment firms, referrals from current or past employees, walk-in applicants, and/or web-based postings.

D. Interviews

The employment interview is a major element in the selection process. It allows the applicant an opportunity to demonstrate his or her capabilities to perform the job and provides information to the candidate about the position. Interviews may be conducted by telephone or in face-to-face sessions.

All interview questions must be job-related and have direct bearing on the tasks of the position. Interviews and questions are standardized so that all applicants are evaluated equally. Questions that express (directly or indirectly) any preference, limitation, or general reference to any individual on the basis of a protected category are prohibited.

E. Probationary Period

All OC LAFCO new hires will have a twelve-month probationary period beginning on the first day of employment. The OC LAFCO supervisor will provide job training during this time period and the employee will be evaluated every three months during the probationary period. OC LAFCO may terminate an employee during this twelve-month probationary period at any point in time therein. OC LAFCO retains the right to extend the probationary period. Nothing in this provision shall alter the at-will status of any employee.

3.11 COMPENSATION PRACTICES

A. Overview

The intent of this policy is to provide guidelines on the compensation practices of OC LAFCO.

B. Policy

It is OC LAFCO's policy to provide salaried exempt and salaried non-exempt employees with equitable salary compensation for the specific job assignment. The OC LAFCO salary compensation program is a "pay for performance" system and is designed to ensure OC LAFCO maintains an equitable value of its jobs while encouraging excellent employee performance. Consideration is given to relevant external factors such as economic conditions and the OC LAFCO annual budget. The program is implemented through established salary structures and grades, with salary ranges for both exempt and non-exempt employees. These grades provide different rates of pay for positions requiring different degrees of responsibility, experience, skills and knowledge.

Utilization of these criteria permits OC LAFCO to give individual consideration to each employee's pay in relation to his or her responsibilities, degree of contribution to the success of the agency, and job performance.

C. Salary Increases

Individual salary increases are not awarded on the basis of length of service but based on performance and OC LAFCO affordability.

D. Merit Reviews

1. Merit increases may be awarded during the compensation year in recognition of the employee's performance. The employee's performance is measured primarily on the following criteria as documented in the annual performance review: (1) did the employee successfully achieve his/her agreed upon goals and objectives? (2) what is the employee's overall value to the organization?

2. The following factors may be considered in the determination of the amount of increase: the employee's position in the pay range; compensation compared to other employees in comparable jobs; and the annual budget of the organization.

3. Merit increases, if awarded, are typically effective at the beginning of the fiscal year but may also be deferred to any effective date within the compensation year. Employees may also receive a "pass" on any merit increase in base salary if (1) his/her performance in the fiscal year has not been worthy of an increase, and/or (2) the agency's budget does not have sufficient funds for increases.

4. Probationary Merit Increase

   If an employee is appointed at Step 1 of the salary range, he/she may be eligible to receive a 2.5% step increase upon completion of six-months of service based on his/her performance.

5. Merit Performance Incentive Pay Program for Employee at Top-Step

   Once an employee reaches the top-step of the salary range for his/her classification, each year, in conjunction with the annual performance evaluation, the employee may be eligible to receive Merit Performance Incentive Pay ranging from zero to three percent of his/her annual base salary.

E. Organizational Promotion

1. A promotional increase may be awarded to an employee who experiences a significant change in the level or kind of work performed.

2. A promotional increase may be awarded to an employee who performs at a high level of competence and has demonstrated readiness to assume broader, more complex assignments if these assignments become available.

   Proposed promotions from non-exempt to exempt salaried status, or from hourly to salaried status, must meet the exemption tests of the California Department of Industrial Relations, Industrial Welfare Commission Wage Order (California Wage Orders) and the Federal Fair Labor Standards Act.

3.12 EMPLOYMENT CATEGORIES

A. Overview

The intent of this policy is to define employment classifications so that employees understand their employment status and benefit eligibility.

B. Policy

These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and OC LAFCO.

C. Exempt/Nonexempt

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the Executive Officer. Generally, EXEMPT employees (as defined by the Fair Labor Standards Act of 1938) are not eligible for overtime pay and are paid on a salary basis. Conversely, NON-EXEMPT employees are generally paid on an hourly basis and are eligible for overtime pay.

D. Employment Categories

In addition to the above categories, each employee will belong to one other employment category:

1. Regular Full Time – Employees who are not in an extra help status and who are regularly scheduled to work OC LAFCO's full-time schedule. Generally, they are eligible for OC LAFCO's benefit package, subject to the terms, conditions, and limitations of each benefit program.

2. Part-Time – Employees who are not assigned to an extra help status and who are regularly scheduled to work less than 30 hours per week. While part time employees do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they may be ineligible for some of OC LAFCO's other benefit programs.

3. Extra Help – Employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Extra help employees retain that status unless and until notified of a change in writing signed by the Executive Officer. Extra help employees are ineligible for OC LAFCO's benefit programs unless otherwise required by law.

4. Intern – OC LAFCO sometimes utilizes the services of paid student interns. Interns are used to supplement the OC LAFCO work force and provide opportunities for local students to gain local government work experience. Employment is for a specified period of time. Interns are ineligible for OC LAFCO's benefit programs.

5. Temporary Assignment Category (outside of regular full-time/part-time employment categories) – Occasionally, employees may be assigned additional temporary duties outside of their current position description when there is a business need, which may be due to new duties to be performed by OC LAFCO which have not yet been permanently assigned, a vacancy during a recruitment or extended leave of another employee. The term of a temporary assignment will be limited and include duties that are required to support internal efficiencies and administration operations. All temporary assignments will be approved by the Executive Officer and will be compensated at a maximum two and a half percent temporary increase to the affected employee's current bi-weekly salary. At the end of the temporary assignment, the affected employee's bi-weekly salary will be returned to the previous bi-weekly salary. This additional amount will not be reportable for retirement purposes. Employees that are required to perform additional duties on a short-term basis (for less than two weeks) will not be eligible for additional pay. A temporary assignment is not intended to be applied to multiple employees at one time for sharing additional duties due to vacancies or extended leaves.

This provision does not apply to the position of Executive Officer.

E. Job Descriptions

Job descriptions are adopted by the Commission in the Classification and Compensation Resolution. Please refer to Resolution CP 18-04 for the current job descriptions.

3.13 PAY POLICIES

A. Overview

The intent of this policy is to explain and clarify wage administration, work hours and timekeeping.

B. Payment of Wages

All employees are paid biweekly (every two weeks). There are 26 pay periods each year with paydays being every other Friday. In the event that the normal payday falls on an OC LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

C. Pay Advances

OC LAFCO does not give advances against wages or un-accrued vacation time.

D. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. Payment due to a correction will be processed in accordance with state law.

E. Overtime Pay

When OC LAFCO's needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work for nonexempt employees must receive prior authorization of the Executive Officer. Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour laws, based on actual hours worked. OC LAFCO will make an effort to evenly distribute overtime based on business necessity among the employees with the necessary skills, knowledge, and abilities. When possible, advance notification will be provided. Employees who refuse to work overtime shall be subject to corrective action, up to and potentially including termination.

OC LAFCO policy is that all overtime should be pre-approved by the Executive Officer. OC LAFCO will pay any overtime worked, regardless if pre-approved. However, the working of overtime that has not been approved may be grounds for discipline, up to and including termination of employment.

All employees who are classified as "non-exempt employees," as defined under applicable laws or regulations, will be eligible for overtime pay. Exempt employees are not entitled to overtime pay. Overtime is typically defined under federal law as hours worked by non-exempt employees in excess of forty (40) hours in a workweek. In California, overtime is also typically applied to hours worked over eight (8) in a standard work day; though alternate work weeks allow variance. OC LAFCO follows the applicable state and federal laws when calculating overtime. Please note that only actual hours worked in a given workday or work week apply in calculating overtime. In other words, sick leave, vacation, holidays, or other paid time off is not considered hours worked for purposes of calculating overtime. Employees are obligated to accurately report their overtime worked; any error in overtime payment must be reported in writing to management for correction.

Employees of OC LAFCO designated as exempt employees shall not be subject to the provisions of this section.

F. Work Hours

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week, at the discretion of the Executive Officer.

G. Timekeeping

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require OC LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Nonexempt employees shall accurately record the actual time they begin and end their work electronically. Each employee is responsible for the daily recording of all time worked on this device. Each employee MUST record their start and finish times for the work day and for meal periods daily. Nonexempt employees must also record departure from work for any non-work-related reason. Failure to do so will subject an employee to discipline, up to and including discharge. Submitting time for another employee is grounds for discipline, up to and including termination. Altering, falsifying, or tampering with time records may result in termination.

OC LAFCO's time keeping policies must be followed at all times. Employees are responsible for reviewing their time entries for accuracy and confirming that their paychecks accurately reflect their actual hours worked. If there are any errors on your paycheck, you should report the error immediately in writing. 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. Any modifications to a time record must be initialed by the employee, supervisor and the Executive Officer. Exempt employees are expected to also keep track of their hours on a timesheet to be provided by OC LAFCO.

3.14 COMPENSATION STRUCTURE

The compensation structure is performance-based with ten-step salary ranges for each classification (See the Classification and Compensation Resolution CP 18-04 for details).

PART 3 – BENEFITS

3.15 INSURANCE AND OTHER BENEFITS

A. Overview

The intent of this policy is to provide insurance and other benefits to all regular full-time and part-time employees of OC LAFCO. The Commission will review and may change these benefits on an annual basis at its discretion.

B. Policy

OC LAFCO employees will receive health insurance, dental insurance and other insurance depending on their particular classifications. These insurance benefits will generally, but are not required to be, the same as provided to County of Orange employees. OC LAFCO employees are also eligible to participate in the Orange County Employees Retirement System (OCERS) and the County of Orange Defined Contribution 457(b) and 401(a) Plans. The Commission will review and establish the benefits annually at its discretion. A Benefits Summary Chart will be prepared annually setting forth these benefits and provided to all OC LAFCO employees.

3.16 TUITION REIMBURSEMENT

A. Overview

OC LAFCO encourages and supports efforts by its employees to improve their skills and educate themselves for advancement. OC LAFCO believes that assisting the employee in the pursuit of an educational agenda or to otherwise expand their work-related knowledge base will benefit both the employee and OC LAFCO.

B. Policy

All regular full-time employees of OC LAFCO, who have successfully completed the twelve-month probationary period, are eligible to receive educational assistance.

Upon pre-approval by the Executive Officer, the following reimbursement policies have been outlined to cover tuition and course/seminar or degree related expenses:

1. Maximum company reimbursement for all course or degree related expenses is $3,000 per calendar year in pursuit of any approved courses, seminars, certifications, associate degree, or bachelor's degree. Reimbursement in pursuit of an approved masters or doctoral degree program is $5,000 per calendar year.

2. Employees will not be reimbursed for more than two (2) courses in a single semester or quarter.

3. Course must be related to the work of the employee's position or occupation and must be taken at accredited institutions.

4. Pre-approval of classes (or course of study) is required by the Executive Officer. Employees must submit a written request for tuition reimbursement, prior to enrolling in the class, to the Executive Officer for approval.

5. Must be an OC LAFCO employee throughout the duration of the course.

6. The percentage of reimbursement is based on the grade earned for each college seminar, certification, associate, bachelor, master or doctoral degree course:

Grade A	100%
Grade B	100%
Grade C*	50%
Pass/Credit	50%

*****Master's and doctoral degree courses completed with a letter grade of "C" or below are not eligible for any reimbursement.

7. Reimbursable expenses include tuition, required textbooks, lab fees, library fees, and required registration and parking fees.

8. Upon completion of the course, official grades and receipts must be submitted to the Executive Officer for reimbursement. Taxes are withheld on educational reimbursements when required by law.

3.17 STAFF MILEAGE REIMBURSEMENT

A. Policy

OC LAFCO staff will be reimbursed at the currently applicable IRS rates for reasonable and necessary mileage expenses when personal vehicles are used for OC LAFCO-related business, including, but not limited to, meetings, project site visits, and conferences. To receive mileage reimbursement, a form indicating the date of the trip, number of miles traveled, purpose of the trip, and reimbursement calculation is required to be submitted for review and approval by the Executive Officer. If approved, the form is submitted to the Bookkeeper for issuance of a reimbursement check.

<u>PART 4 – TIME OFF</u>

3.18 SICK LEAVE BENEFITS

A. Overview

Employees who are hired to work at least thirty days are eligible for California Paid Sick Leave. The intent of this policy is to provide paid time off for the purpose of illness or other medical requirements.

The Commission will review and may change any of these sick leave benefit provisions on an annual basis at its discretion.

B. Policy

OC LAFCO provides paid sick leave benefits to all employees as required by California law.

C. Accumulation of Sick Leave

During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regular scheduled workweek or period (approximately seventy-two (72) hours per year).

After an employee has been paid for six thousand two hundred forty (6240) regular scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period (approximately ninety-six (96) hours per year).

Sick leave earned shall be added to the employee's sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period or for a portion of the pay period during which the employee terminates service.

Employees may only accumulate up to a maximum of 1500 hours of sick leave.

Extra Help Employees shall accrue sick leave at a rate of one hour per every 30 hours worked beginning at the commencement of employment.

Extra Help Employees will have a maximum sick leave accrual of 80 hours. Extra Help Employees will not accrue any additional sick leave hours once they hit 80 hours in their sick leave balance. Once they fall below 80 hours of sick leave accrual, they will begin to accrue sick leave again. Extra Help Employees may use up to a maximum of 40 hours sick leave annually.

Should an Extra Help Employee become a regular full time or part time employee, the pro-rated sick leave hours they accrued as an Extra Help will roll over into their sick leave account as a regular full time or part time employee.

D. Permitted Uses of Sick Leave

Employees may use Paid Sick Leave for the following purposes:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's qualified family member.

2. For an employee who is a victim or whose family member is a victim (an individual against whom a qualifying act of violence is committed), as defined in subdivision (j) of Section 12945.8 of the Government Code, the purposes described in paragraph (3) of subdivision (a), or subdivision (b), of Section 12945.8 of the Government Code.

3. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:

    a. The illness or injury of the employee or member of the employee's immediate family was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.

b. The employee must notify the Executive Officer within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave.

c. OC LAFCO shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.

d. Upon the employee's return to work, the employee may be requested to furnish OC LAFCO with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.

4. Absence from duty because of personal emergencies is not to exceed twenty (20) working hours during the fiscal year. A personal emergency is something unanticipated that requires the employee to personally attend to the situation and must be attended to during normal working hours.

5. An absence due to the air pollution alert, which prevents the employee traveling to his or her work location.

A "family member" for these purposes is defined as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling, or a designated person which is a person identified by the employee at the time the employee requests paid sick days.

Sick leave shall not be applied to an absence which occurs on a holiday observed by OC LAFCO.

In any use of sick leave, an employee's account shall be charged to the nearest quarter hour for a non-exempt employee, which exempt employees will be charged only for full-day absences. Exempt employees are defined as those employees who are exempt from overtime rules under the Fair Labor Standards Act.

To the extent possible, employees must provide reasonable advance notice of their need for California Paid Sick Leave under this policy to the Executive Officer or their immediate supervisor by telephone. If the need is not foreseeable, the employee must provide notice as soon as practicable. It is the responsibility of the employee to keep the supervisor informed as to continued absence beyond the first day.

An employee may be required to furnish a certificate issued by a licensed health care provider or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls when OC LAFCO has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

Any accrued, unused sick leave will roll over into the next calendar year.

E. No Payout of Sick Leave

There is no payout for unused accumulated sick leave when an employee leaves employment with OC LAFCO.

F. Transfer of Sick Time between OC LAFCO Employees

OC LAFCO employees, with the approval of the Executive Officer, may transfer up to 80 hours of sick leave per year to another OC LAFCO employee if needed to cover time off for medical or dental appointments or personal emergencies. OC LAFCO employees, with the written approval of the Executive Officer, may transfer a portion of their unused sick time balance to another OC LAFCO employee under the following circumstances:

1. An OC LAFCO employee may transfer no more than 80 hours of sick time to any one OC LAFCO employee during any calendar year.

2. The OC LAFCO employee receiving the sick time transfer must be experiencing personal or family medical issues requiring extended periods of time away from the office.

3. The OC LAFCO employee transferring sick time must maintain a minimum balance of at least 40 hours of sick time after an approved transfer.

4. All sick-time transfer requests must be approved by the Executive Officer.

3.19 VACATION[1]

[1] Amendment to the vacation policy for vacation accruals was approved by the Commission on October 11, 2023 with an effective date of December 15, 2023.

A. Overview

This policy applies to all regular full-time and part-time employees of OC LAFCO. The intent of this policy is to provide paid time off for employees as a means of rest and rejuvenation. OC LAFCO encourages employees to utilize this benefit every year. OC LAFCO believes personal time off is an important means to enable continuation of strong performance and positive contribution to OC LAFCO, as well as encourage a balanced and enriching life for employees. The Commission will review and may change any of these vacation benefit provisions on an annual basis at its discretion.

B. Policy

During the first three years of employment, an employee shall earn approximately .0577 hours of vacation leave with pay for each hour in a regularly scheduled workweek or period (120 hours or 15 days per year).

After an employee has been paid for 6,240 regularly scheduled hours, approximately three years, the employee shall earn approximately .077 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (160 hours or 20 days per year).

After an employee has been paid for 20,800 regularly scheduled hours, approximately ten years, the employee shall earn approximately .0962 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (200 hours or 25 days per year).

Regular part-time employees with continuous service working 20 hours or more per week will accrue vacation in accordance with the above schedule, on a pro-rated basis determined by normal hours worked. Active service for all regular employees commences with their first day of work and continues thereafter unless broken by an absence without pay or leave of absence. Extra help employees do not accrue paid vacation.

Employees cannot accumulate more than 240 hours of vacation.

Accrual ceases until vacation is utilized to bring the amount of accrued vacation below the applicable cap or vacation is cashed out as permitted by this policy.

In order to request vacation time, employees should submit a written request to the Executive Officer or Assistant Executive Officer. Efforts will be made to accommodate all employees' requests for specific vacation leave time. However, the Executive Officer or Assistant Executive Officer will also consider the needs of

OC LAFCO when evaluating vacation requests.

In rare cases, the Executive Officer may allow an employee to take an advance on vacation accrual time; however, this advance will not be allowed to exceed the

amount of time the employee is scheduled to accrue during the current service year. Before any advance on vacation is granted, the employee will sign an authorization which authorizes OC LAFCO to deduct from his/her final paycheck the amount of any un-accrued vacation time advanced to the employee which has not subsequently been accrued.

During each fiscal year an employee may request to be paid for accrued vacation in either two (2) separate increments of up to forty-five (45) hours each or one (1) increment of up to ninety (90) hours.

Upon separation from OC LAFCO employment, an employee is eligible to be paid for accrued, unused vacation days up to a maximum of 240 hours at 100% of the employee's hourly salary. In cases where an employee terminates employment with OC LAFCO and has been permitted to take vacation time prior to actual accrual, the final paycheck will reflect a deduction relative to the amount of unaccrued time off taken.

A holiday that falls during an employee's vacation leave will be treated and paid as a holiday and not as a day of vacation leave.

3.20 HOLIDAY

A. Overview

The intent of this policy is to provide paid time off for eligible employees for holidays throughout the year.

B. Policy

Holiday time off with pay will be granted to all regular full-time employees and regular part-time employees (prorated) for the days designated by the County of Orange on an annual basis. Each part-time employee scheduled to work, but permitted to take the day off, shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek up to a maximum of eight (8) hours of compensatory time. Holidays will vary year to year and a schedule will be published each year.

3.21 COMPENSATORY TIME

A. Overview

OC LAFCO employees earn compensatory time ("comp time") when a County holiday falls on a "flex" day. Limited comp time is also earned during the calendar year to all employee's time off to attend special religious or other designated events.

B. Policy

For employees who are not scheduled to work on a holiday (whose regular day off is the holiday) or their flex day falls on a holiday, management should work with employees to offer one of the following options:

1. The employee may change his or her schedule and take another day off in the same pay period where operationally feasible and without incurring overtime liability. For employees who are not on an eight-hour day schedule, the employee may go on an eight-hour day schedule for the workweek in which the holiday fills.

2. The employee may bank eight (8) hours of non-cashable compensatory time for use at a later date.

Compensatory time may be used in lieu of vacation time for time off. Compensatory time shall have no cash value and any unused hours will be forfeited upon separation from the County.

3.22 PREGNANCY RELATED DISABILITY LEAVE

A. Eligibility

In accordance with applicable law and this policy, female employees are eligible for a leave of absence and/or transfer on account of pregnancy, regardless of length of service with OC LAFCO.

B. Pregnancy Disability Leave

OC LAFCO recognizes that employees may be unable to work for temporary or extended periods of time due to pregnancy, childbirth, or related medical conditions. Accordingly, for any employee who is disabled by pregnancy, childbirth, or related medical conditions, OC LAFCO provides leave for the period of actual disability ("Pregnancy Disability Leave"), up to a maximum of four months.

Pregnancy Disability Leave may be taken intermittently, or on a reduced-hours schedule, as medically advisable. An employee may also be entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions.

1. A woman is "disabled by pregnancy" if, in the opinion of her healthcare provider, she is unable to work at all or is unable to perform one or more of the essential functions of her job or to perform these without undue risk to herself, to the successful completion of her pregnancy, or to other persons.

2. Pregnancy disability leave is for any period(s) of actual disability caused by pregnancy, childbirth, or related medical conditions. Where medically advisable, pregnancy disability leave may be taken for a reasonable period of time, up to four months per pregnancy (eighty- eight workdays for a full-time employee). Employees who regularly work more or less than a 40-hour workweek are entitled to such leave on a pro rata basis.

3. Time off for necessary prenatal or postnatal care, as well as for any conditions such as severe morning sickness, doctor-ordered bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss and end of pregnancy, and recovery from childbirth are all covered by pregnancy disability leave.

C. Leave Due to Childbirth

Even if the employee is not disabled by pregnancy, childbirth, or related medical conditions, a pregnant employee is entitled to up to six weeks of leave for normal childbirth. A pregnant employee is entitled to up to eight weeks of leave for cesarean section. Employees working more or less than a 40-hour work week are entitled to such leave on a pro rata basis.

D. Leave, Transfer and Other Reasonable Accommodation Requests

1. Pregnant employees should notify the Executive Officer as soon as possible regarding their intent/need to take a leave of absence or to transfer due to pregnancy, childbirth, or related medical conditions. Such notice should specify the anticipated timing and duration of the leave or transfer.

2. Where the need for a leave of absence or transfer is foreseeable, employees must provide such notice at least 30 days prior to the date the leave or transfer is to begin. Further, employees must consult with the Executive Officer regarding the scheduling of any planned medical treatment or supervision so

as to minimize any disruption to OC LAFCO's operations. (Actual scheduling of the leave/transfer is subject to the approval of the employee's healthcare provider.)

3. Where 30 days advance notice is not possible, notice must be given as soon as possible. If an employee fails to provide the requisite 30 days' advance notice for a foreseeable need for leave, without any reasonable excuse for the delay, OC LAFCO reserves the right to delay the taking of the leave until at least 30 days after the date that the employee does provide such notice. However, OC LAFCO will not deny a pregnancy disability leave or transfer where the need for leave is an emergency or was otherwise unforeseeable.

4. OC LAFCO shall respond to the leave or transfer request as soon as practicable and, in any event, no later than 10 calendar days after receiving the request. OC LAFCO shall attempt to respond to the leave request before the date of leave is due to begin. Once given, the approval shall be deemed retroactive to the date of the first day of the leave.

5. Reasonable accommodation other than leave or transfer will be granted upon request. Such requests must be supported by a written certification from the employee's healthcare provider.

E. Intermittent Leave

Pregnancy Disability Leave need not be taken in one continuous block. It may be taken on an as-needed basis, intermittently or on a reduced work schedule.

1. If it is medically advisable and foreseeable that an employee will be taking intermittent leave or leave on a reduced work schedule, OC LAFCO may require that the employee transfer temporarily to an available alternative position.

2. An "alternative position" is one that provides pay and benefits equivalent to those of the employee's regular position and better accommodates recurring periods of leave than the employee's regular job. It does not have to have equivalent duties. However, the employee must be qualified for the position.

3. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule.

F. Temporary Transfers

1. An employee may request a temporary transfer to a position with less strenuous or less hazardous duties when the employee's healthcare provider

certifies that such a transfer is medically advisable.

2. Temporary transfers will be granted where appropriate and when OC LAFCO is able to reasonably accommodate the transfer, provided that the transfer would not require OC LAFCO to:

   a. Create additional employment.
   b. Discharge another employee.
   c. Violate collective bargaining agreement.
   d. Transfer a more senior employee in order to make room for the pregnant employee's transfer; or
   e. Promote or transfer the employee or any other employee to a position for which he/she is not qualified.

G. Certifications

1. As a condition of taking a Pregnancy Disability Leave or transfer, the employee must provide medical certification from her healthcare provider that she is disabled due to pregnancy, childbirth or related medical conditions and/or that a transfer to an alternative position is medically advisable.

2. The medical certification should include:

   a. The date on which the employee became disabled due to pregnancy or the date of the medical advisability for the transfer.

   b. The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and

   c. A statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons or a statement that, due to pregnancy, the transfer is medically advisable.

   d. Upon expiration of the time period for the leave estimated by the health care provider, OC LAFCO may require the employee to provide another medical certification if additional leave time is requested.

H. Fitness for Duty

The employee must provide certification from her healthcare provider of her fitness for duty prior to being reinstated.

I. Pay During Leave

1. Pregnancy Disability Leave is unpaid leave. However, the employee may elect to use, or OC LAFCO may require that the employee use accrued sick leave to provide pay during the period of Pregnancy Disability Leave.

2. An employee may also elect, at her option, to use accrued vacation or other accrued paid time off, if any, to provide pay during pregnancy disability leave. The use of paid leave runs concurrently with Pregnancy Disability Leave and does not extend the length of the Pregnancy Disability Leave.

3. The employee may also be eligible to receive temporary disability insurance payments during her Pregnancy Disability Leave, and to coordinate the use of any accrued sick leave and/or vacation to supplement temporary disability insurance payments.

J. Reinstatement

1. The employee is entitled to be reinstated to the same or comparable position upon release to return to work by her healthcare provider.

   a. Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated by the date agreed upon, provided that the employee has provided medical certification of her fitness for duty.

   b. If the actual reinstatement date differs from the original agreement, the employee will be reinstated within two business days, where feasible, after the employee notifies OC LAFCO of her readiness to return and provides medical certification of her fitness for duty.

   c. Failure to return to work on the next workday following the expiration of pregnancy disability leave may be grounds for termination of employment.

2. The employee is not, however, entitled to any greater right of reinstatement than she would have had if she had not taken leave. Thus, reinstatement to the "same position" may be denied if for legitimate business reasons unrelated to the employee having taken a Pregnancy Disability Leave or transfer, the employee would not otherwise have been employed in her same position at the time reinstatement is requested.

3. Also, the employee has no greater right to reinstatement to a "comparable position" or to other benefits and conditions of employment than an employee who has been continuously employed. Thus, reinstatement to a comparable position may be denied if there is no comparable position open on the employee's scheduled date of reinstatement or within 60 calendar days thereafter.

4. In the event that the employee takes family and medical leave under the California Family Rights Act ("CFRA") following her pregnancy disability leave for the birth of her child, the employee's right to reinstatement shall be governed by the CFRA and OC LAFCO's Family and Medical Leave Policy rather than these provisions.

K. Seniority and Benefits

1. In general, employees taking Pregnancy Disability Leave will be treated the same as other similarly situated employees taking disability leave.

2. The employee returning from a Pregnancy Disability Leave shall return with no less seniority than she had when the leave commenced for purposes of layoff, recall, promotion, job assignment, and seniority related benefits such as vacation.

3. The employee shall retrain employee status during the period of leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority.

L. FMLA/CFRA and Pregnancy Disability Leave

In accordance with the Federal Family and Medical Leave Act (FMLA), OC LAFCO shall count each day of pregnancy disability leave against an eligible employee's entitlement to up to 12 weeks of leave under the FMLA. Pursuant to the CFRA, the right to CFRA is separate and distinct from the right to take leave for pregnancy disability, and PDL will not be counted against the CFRA leave entitlement.

M. Group Health Insurance

Where an eligible employee is on Pregnancy Disability/FMLA Leave, OC LAFCO will continue the employee's group health insurance coverage under the same terms and conditions as applied prior to the leave of absence.

1. In the event that the employee fails to return from leave, OC LAFCO may recover premiums it paid to maintain group health insurance coverage. (For details, see OC LAFCO's Family and Medical Leave Policy.)

2. If the employee coverage ceases after the exhaustion of Pregnancy Disability Leave/FMLA or other leaves, the employee may continue group health insurance

coverage pursuant to federal and state COBRA guidelines.

3.23 OTHER TIME OFF

A. Overview

This policy applies to all regular full-time and regular part-time employees of OC LAFCO. The intent of this policy is to outline other types of paid and unpaid time off available to eligible employees.

B. Bereavement Leave

Upon request, employees who have been employed for at least 30 days will be entitled to five (5) days of paid leave, which will be pro-rated for part-time employees based on hours worked, for each death in the employee's immediate family. For purposes of this section, immediate family is defined as the employee's spouse, parent, child, sibling; the employee's spouse's parent, child, or sibling; the employee's child's spouse; grandparents or grandchildren; the employee's domestic partner or the child of a domestic partner; person whom the employee has/had a legal guardian relationship. To the extent allowed by law, OC LAFCO may request documentation from an employee availing themselves of this leave.

The days of bereavement leave do not need to be taken consecutively, however, the employee must complete the bereavement leave within three months of their family member's death, at which time any remaining unused bereavement leave will expire.

Employees may also, with the approval of the Executive Officer, use any available paid leave for additional time off as necessary. If more time off is requested, it will be granted only at the discretion of the Executive Officer. Bereavement pay is calculated based on the base pay rate at the time of absence and prorated for part-time employees.

C. Reproductive Loss Event

All employees who have been employed for OC LAFCO for at least 30 days are entitled to an unpaid leave of absence up to five (5) days in total following a reproductive loss event. Such leave must be taken within three (3) months of the reproductive loss event. If an employee experiences more than one reproductive loss event within a 12-month period, OC LAFCO will grant the employee a cumulative total of up to of 20 (twenty) unpaid days of leave; subject to the limitation that each unpaid leave of absence shall not exceed five (5) days.

A reproductive loss event is defined as: failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. If the employee would have been recognized as a parent if the aforementioned events were successful, the employee will be covered under this definition. This includes the employee, the employee's current spouse or domestic partner, or another individual if the person would have been a parent of a child as a result of the event.

The leave of absence following a reproductive loss event is unpaid, though an employee may elect to utilize any accrued and available paid sick leave, vacation, personal leave, or compensatory time off that is otherwise available to the employee.

D. Jury Duty Leave

OC LAFCO encourages employees to fulfill their civic responsibilities by serving jury duty or appearing in court as a witness when required. OC LAFCO provides 30 days of paid time off at the employee's regular rate of pay for jury duty service provided the employee deposits fees paid for hours of jury duty excluding mileage. For service longer than 30 days, employees may use any accrued vacation leave or receive unpaid leave for jury duty service.

Employees must show the jury duty summons to the Executive Officer as soon as possible so that arrangements may be made to accommodate their absence. Employees are expected to report for work whenever the court schedule permits, including any remaining parts of a normally scheduled workday.

OC LAFCO will continue to provide health insurance benefits for the full term of the jury duty absence. Vacation, sick leave, and holiday benefits will continue to accrue during jury duty leave.

E. Domestic Violence Victim Leave, Sexual Assault or Stalking

OC LAFCO will provide time off to an employee who has been the victim of domestic violence, sexual assault or stalking to seek 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. This includes time off for court proceedings, services from a domestic violence shelter, program or rape crisis center, counseling, medical attention, and participation in safety planning programs. OC LAFCO requires reasonable advance notice of the leave when feasible. If time off is taken due to an emergency, the employee must, within 15 days of the absence, provide OC LAFCO with certification of the need for the leave such as a police report, court order, documentation from a healthcare provider, victims advocate, or counselor.

Employees eligible for paid sick leave benefits under California law may take any such available paid time off, consistent with such law, for the purposes set forth in this policy. For more information, please see the Sick Leave policy. In the event paid sick leave benefits are not available, employees taking leave under this policy may elect to apply accrued and unused vacation to such time.

OC LAFCO prohibits discrimination, discharge, or retaliation against an employee for taking time off or requesting an accommodation under this policy or based on the employee's status as a victim of domestic violence, sexual assault, and/or stalking.

F. Crime Victims' Leave

OC LAFCO will provide time off to an employee to attend judicial proceedings related to a crime, if that employee is a victim of crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim. OC LAFCO requires that, where feasible, in advance of taking leave, the employee provide it with a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice. If advance notice is not possible, the employee is required to provide OC LAFCO with a copy of the notice within a reasonable time.

No employee who is absent from work pursuant to this provision will be discharged or otherwise discriminated against in compensation or other terms, conditions or privileges of employment, because of such absence. Such leave is unpaid. Employees taking leave under this policy may elect to apply vacation time to such leave.

G. Leave for Organ and Bone Marrow Donation

OC LAFCO will grant an employee the following leaves of absence:

1. Bone Marrow Donation:

   A paid leave of absence of up to five business days in any one-year period for the purpose of donating the employee's bone marrow to another person.

2. Organ Donation:

   a. A paid leave of absence of up to 30 business days in any one-year period for the purpose of the employee donating the employee's organ to another person.
   b. An additional unpaid leave of absence, not exceeding 30 business days in a one-year period, for the purpose of the employee donating the employee's organ to another person.

For leaves of absence under this policy that are paid, if an employee has earned and unused sick or vacation time is available, the employee is required to first use up to five days of such paid sick or vacation time for a bone marrow donation and up to two weeks of sick or vacation time for organ donation.

In order to receive a leave of absence pursuant to this policy, the employee must provide written verification to OC LAFCO that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

Any leave taken for the donation of an organ or bone marrow will not constitute a break in service for purposes of the employee's right to salary adjustments, sick leave, vacation, annual leave, or seniority. During any leave taken under this policy, OC LAFCO will maintain and pay for coverage under any group health plan, for the full duration of this leave.

Leave provided under this policy may be taken in one or more periods. Leave taken under this policy will not run concurrently with any leave taken pursuant to the federal Family and Medical Leave Act or the California Family Rights Act.

Upon expiration of a leave of absence authorized by this policy, OC LAFCO will restore the employee to the position held by the employee when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. OC LAFCO may decline to restore an employee because of reasons unrelated to the employee's exercise of rights under this policy.

H. Time Off to Vote

Generally, employees are able to find time to vote either before or after their regular work schedule. If, however, full-time employees are unable to vote in an election during their non-working hours, OC LAFCO will grant up to 2 hours of paid time off to vote.

Employees requiring time off to vote should make their requests at least two working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift, whichever provides the least disruption to the normal work schedule. Employees must submit a voter's receipt on the first working day following the election to qualify for paid time off.

I. Military Leave

Military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Military and

Veterans Code Section 394.5. Advance notice of military serve is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable. Employees who have been employed for at least one year are eligible for up to 30 days of paid leave for active-duty training.

Employees on military leave will receive rights and benefits comparable to those they would receive under OC LAFCO's policies for other types of leave. Continuation of health insurance benefits is available based on the length of the leave and subject to the terms, conditions and limitations of the applicable plan for which the employee is otherwise eligible. Employees on leave for no more than 30 days will receive continued health insurance benefits but are responsible for paying their portion of the health care coverage continuation rights. Vacation, sick leave and holiday benefits will continue to accrue during any paid portion of a military leave of absence.

CFRA permits employees to take up to 12 workweeks of unpaid protected leave during a 12-month period for a "qualifying exigency" related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child or parent in the U.S. armed forces. The Federal Family and Medical Leave Act (FMLA) also entitles eligible employees to take leave for a covered family member's service in the Armed Forces. This policy supplements our Family and Medical Leave policy and provides a general notice of employee rights to this leave. Except as stated below, such rights and obligations for service member leave are governed by our existing Family Leave policy. Service member FMLA/CFRA runs concurrent with other leave entitlements provided under federal, state and local law. Service member FMLA provides eligible employees unpaid leave for anyone, or combination of the following reasons:

1. A "qualifying exigency" arising when the employee's spouse, son, daughter or parent, who is a member of the Armed Forces (including National Guard and Reserves), is on covered active duty or has been notified of an impending call to order to covered active duty; and/or

2. 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 healthcare provider.

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.

When leave is to care for an injured or ill service member, an eligible employee may take up to 26 weeks of leave during a single 12-month period to care for a 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.

Where spouses are both employed by OC LAFCO, 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.

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.

J. Military Spouse Leave

Qualified California employees will be given up to 10 days leave during that time in which the employee's spouse or domestic partner is on leave from deployment in a combat zone with the active duty or reserve military or national guard during a period of military conflict. Employees may use accrued vacation time to cover this absence. If the employee has no accrued vacation, the employee must request time off without pay.

Qualifying employees are employees who work an average of 20 hours per week and have a spouse or domestic partner who is serving as (1) a member of the U.S. Armed Forces and who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States or (2) a member of the Armed Forces Reserve Components or the National Guard and has been deployed during a period of military conflict.

Qualifying employees who wish to request this leave must provide OC LAFCO with a written request for such leave within two business days of receiving official notice that the military spouse or domestic partner will be on leave from deployment. The employee must also provide written documentation to OC LAFCO certifying that the military member will be on military leave from deployment.

K. Workers' Compensation Leave

If an employee sustains a work-related injury, he or she will be eligible for a medical leave of absence for a period of disability in accordance with all applicable laws covering occupational injuries.

Where an employee's work-related injury qualifies as a serious health condition, any Workers' Compensation Leave taken will be considered part of his or her entitlement, if any, to leave under the Family and Medical Rights Act ("FMLA") and the California

Family Rights Act ("CFRA"). Employees on Workers' Compensation Leave should keep their supervisors informed as to their work status and will need to provide a doctor's release before returning to work.

For more information on how to apply for or obtain workers' compensation information, an employee may contact the County of Orange, Risk Management Department at (714) 285-5511. Additional information may also be found at the following worker's compensation resources:

1. State of CA Department of Industrial Relations Website: https://www.dir.ca.gov/dwc/fileaclaim.htm.

2. Facts for Injured Workers: https://www.dir.ca.gov/dwc/InjuredWorker.htm.

L. Volunteer Emergency Leave and Training

If employees volunteer as a firefighter, reserve peace officer, or emergency rescue personnel, they may be entitled to unpaid leave to perform emergency duty. In addition, they may take unpaid leave of up to 14 days per calendar year for the purpose of engaging in fire or law enforcement training. If an employee qualifies for these types of leave, he or she may use accrued vacation during the leave. Time spent on this leave counts for purposes of determining "length of service." However, vacation will not be accrued, and holiday pay will not be received during this leave.

M. Time Off for Parents to Attend School Activity

Employees, who are parents of one or more children in kindergarten, or in grades 1 through 12, may take time off of up to forty (40) hours per school year to attend authorized school activities which involve one or more of the employee's school age children. To be eligible for parental time off, the employee must obtain from the school, written verification that he or she attended or participated in the school activity. Parental time off may not exceed eight hours in any calendar month.

Employees may use any accrued vacation while they attend their child's school activities. If not, the employee's parental time off will be unpaid. For scheduling purposes, employees must notify the Executive Officer at least one (1) week before the date of the school activity, so that their work duties may be covered.

N. Literacy Education Leave

OC LAFCO will reasonably accommodate employees who are seeking to enroll in an adult literacy education program provided the accommodation requested would not result in undue hardship to OC LAFCO. OC LAFCO does not provide paid time off for participation in an adult literacy education program.

O. Kin Care Leave

Under California state law, employees who accrue sick leave are eligible for Kin Care Leave (KCL). An employee may use KCL for the following reasons:

1. Diagnosis, care, or treatment of an existing health condition of the employee, or preventive care for, an employee or an employee's covered family member.

2. For obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.
3. If the employee is a victim of domestic violence, sexual assault, or stalking, the employee may take time off to: obtain medical treatment, counseling or other victims' services, obtain or attempt to obtain any relief to help ensure the health, safety, or welfare of the employee or the employee's child, such as a temporary restraining order, restraining order, or other injunctive relief.

The number of days the employee can take off is calculated as an amount not less than the sick leave that would be accrued during 6 months of the employee's then-current rate of entitlement. Employees are able to use up to half of their sick leave for KCL. But, no more than one-half of the employee's annual accrued sick leave benefits can be counted as KCL. For a full-time career employee, for example, this would mean no more than 48 hours of sick leave can be counted as KCL.

To the extent possible, employees must provide reasonable advance notice of their need for leave under this policy. If the need for leave is not foreseeable, an employee must provide notice as soon as practicable.

For purposes of this policy, a family member means as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling.

Please note, leave under this statute runs concurrently with paid sick leave and CFRA/FMLA leave.

P. Alcohol and Drug Rehabilitation Leave

Under California state law, employees who seek time off to voluntarily complete a rehabilitation program are eligible for this leave under this policy.

Employees may take reasonable unpaid leave as long as the leave does not cause OC LAFCO an undue hardship. This leave is unpaid but employees may choose to use available sick leave concurrently with rehabilitation leave.

3.24 FAMILY AND MEDICAL LEAVE

A. Overview

The intent of this policy is to outline and explain some of the rules and requirements applying to the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

Note: Employers with at least 50 employees are required to comply with FMLA, whereas all public employers are required to comply with the CFRA. OC LAFCO does not meet the threshold for FMLA, but by policy provides leave pursuant to the FMLA.

B. Eligibility

Regular full-time and regular part-time employees are eligible to request unpaid Family and Medical Leave under CFRA/FMLA if at the time leave commences, all of the following apply:

1. Must have worked for OC LAFCO for at least twelve (12) months at any time (need not be continuous).

2. Must have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of the leave.

Part-time employees who meet the requirements will calculate Family and Medical Leave on a prorated basis according to the number of hours they are normally scheduled to work.

C. Reasons for Leave

Leave may be requested for any of the following reasons:

1. The birth or adoption of a child, or the placement of a child in foster care.

2. To care for the employee's child (including adult children over 18 years of age, stepchildren and children of a domestic partners), spouse, sibling, registered domestic partner, parent (including parent-in-law), grandchild, grandparent or designated person with a serious health condition. "Designated person" means

any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. OC LAFCO may limit an employee to one designated person per 12-month period for family care and medical leave.

3. A serious health condition that prevents the employee from performing an essential function of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions; or

4. Military spousal, and military caregiver and exigency leave.

Family and Medical Leave is not available for non-serious conditions (including minor illnesses or for voluntary or cosmetic treatments) unless inpatient care is required or for routine preventive physical examinations.

D. Length of Leave

The length of Family and Medical Leave is up to twelve workweeks within a twelve-month period (exception for Pregnancy Disability and Military Caregiver – see policies). The twelve-month period begins the date the leave is taken. There is no carryover of unused leave from one twelve-month period to the next twelve- month period. Holidays that fall during the leave are counted against leave entitlement.

If at the end of twelve weeks the employee is unable to return to work, they may request a personal leave without pay. Such leave is granted at the discretion of OC LAFCO, and

there is no requirement to hold the job available during the personal leave. OC LAFCO will, however, be governed by the Americans with Disabilities Act, the California Fair Employment and Housing Act, and Workers' Compensation regulations, if applicable.

E. Intermittent or Reduced Scheduled Leave

Family leave taken for the purpose of birth or placement of a child will generally be granted in minimum amounts of two weeks. However, an employee may request smaller increments of leave time which will be granted on any two occasions and will be subject to OC LAFCO approval for any additional requests based upon business needs.

Family and Medical Leave for the employee's own serious health condition, family care leave for the serious health condition of the employee's child (including adult child over 18 years of age), spouse, sibling, registered domestic partner, child of a registered domestic partner, parent, grandchild, grandparent or designated person and military caregiver leave may be taken intermittently or on a reduced schedule when medically necessary. Where the intermittent or reduced schedule leave is for planned medical treatment, the employee must make an attempt to schedule the treatment so as not to unduly disrupt OC LAFCO's operations. Military exigencies' leave also may be taken intermittently or on a reduced schedule.

If leave is taken intermittently or as a reduced work schedule, the amount of time used under Family and Medical Leave is only the time actually taken. For example, one day of leave per week for an employee who works five days per week is the equivalent of 1/5 of a week of Family/Medical Leave used.

F. Temporary Alternative Positions

An employee may be placed in a temporary alternative position if they request intermittent or reduced schedule leave, or the existing position description may be altered, to better accommodate the employee's need for recurring periods of leave. The alternative position may not have equivalent duties but will receive equivalent pay and benefits. The employee must be qualified for the position. They may also be transferred to a part-time job with the same hourly rate of pay and benefits.

G. Impact on Benefits

Health insurance premiums that are normally paid by OC LAFCO will continue to be paid during Family and Medical Leave for a maximum of twelve workweeks in a twelve-month period. The employee is still responsible for his or her share of the health insurance premiums during the period of leave. If the employee substitutes paid leave for unpaid leave, such payments will be deducted from the employee's pay through payroll deductions. Otherwise, the employee must make arrangements with OC LAFCO to pay

for such premiums.

OC LAFCO may recover any health insurance premiums it paid during the leave if the employee fails to pay his or her share of the premiums during the leave or the employee fails to return to work from leave for a reason other than recurrence, continuation, or onset of a serious health condition for which leave under this policy is allowed or other circumstance beyond the employee's control.

Service time, as well as vacation and incidental absence time, will continue to accrue during, but not exceeding, the twelve-week period. Employees will not be paid for holidays if they are in an unpaid status. For Family and Medical Leave of 30 days or less, reviews relating to salary and performance will continue as usual. A salary action which would have ordinarily taken place during the time of the leave will become effective upon the employees return to work. For Family and Medical Leave of over thirty days, Salary and Performance Reviews will be extended equal to the length of the leave.

H. Pregnancy Disability

In addition to the pregnancy disability leave described in this handbook, an eligible pregnant California employee is entitled to up to 12 additional workweeks of CFRA Leave. The maximum time to be taken off is: four months pregnancy disability/FMLA (with a healthcare provider's certification) plus 12 workweeks CFRA.

I. Requesting a Leave

An employee will be asked to provide certification from a health care provider that the leave is medically necessary when requesting a leave for their own health condition. If the health condition is that of a parent, spouse, or child, the healthcare provider must certify that the employee's care is required.

All requests must be provided in writing and include information and a schedule relative to the leave. Employees are requested to give as much advance notice as possible. Thirty (30) days is considered a minimum. In cases of emergency, give as much notice as possible under the circumstances. If the leave schedule is flexible, employees are required to try to schedule the leave so as not to unduly disrupt OC LAFCO's operations.

J. Integration with Paid Leave

Leave provided under FMLA/CFRA is unpaid. However, at the option of OC LAFCO or the employee, accrued vacation (or, Sick Leave where the leave is required due to the employee's serious health condition, or the serious health condition of a family member and Sick Leave would otherwise be permitted under OC LAFCO's policy) may be substituted for any unpaid Family Medical Leave. This designation of Family and Medical

Leave will be made by OC LAFCO at the time the employee requests the leave or when OC LAFCO determines that the leave qualifies as Family and Medical Leave based on the information provided. In either case, the total of paid and unpaid leave provided is limited to twelve workweeks.

K. Upon Return from Leave

Employees timely returning from a leave covered under this policy are entitled to reinstatement to the same or equivalent position consistent with applicable law. An employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. OC LAFCO will comply with all applicable laws pertaining to reinstatement of employees including, where required, the reasonable accommodation of employees who have been on an approved leave. OC LAFCO will be governed by the Americans with Disabilities Act, the Fair Employment and Housing Act, CFRA/FMLA, and/or Workers' Compensation regulations where applicable. Family and Medical Leave will not result in the loss of any employment benefit that was earned or entitled to before use of Family and Medical Leave.

Employees using Family and Medical Leave for their own serious medical condition must bring a healthcare provider's release to work upon returning from leave.

PART 5 – CONDUCT AND PROBLEMS

3.25 SAFETY

A. Overview

The intent of this policy is to outline safety expectations.

B. Policy

OC LAFCO is committed to providing a safe and healthy workplace. The safety of every employee is a fundamental consideration for OC LAFCO, and all reasonable precautions will be taken to protect employees from injury. In order to promote safety in the workplace, OC LAFCO expects employees to conduct business and perform their duties in a safety-conscious manner at all times. All work areas must be kept clean, and free of clutter and debris. OC LAFCO also expects all employees to refrain from horseplay and careless behavior in the workplace. Any hazards or potentially dangerous conditions must be corrected promptly and/or reported to a supervisor.

Every employee of the OC LAFCO shall be required to observe all OC LAFCO and departmental health and safety procedures. At the close of each business day, employees must ensure that all equipment is put away. All stationery and miscellaneous supplies should be removed from tables, benches and furniture tops. Paperwork should not be left out overnight. Employees must not litter or discard items on the premises.

If an employee identifies a potentially unsafe condition or risk, the employee should immediately report the matter to their supervisor.

Under California law, in the event of an emergency condition, OC LAFCO will not take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace because the employee has a "reasonable belief that the workplace is unsafe." The law requires employees to, "when feasible," notify employers in advance of the emergency condition that requires they either leave the workplace or refuse to report to work. If it's not feasible, then the employee must notify the employer as soon as possible. "Emergency Condition" for purposes of this policy, is defined as conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act. And, an order to evacuate a workplace, worksite, worker's home, or the school of a worker's child due to natural disaster or a criminal act.

"A reasonable belief" for purposes of this policy, is defined as the workplace or worksite is unsafe" means that a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises. The existence of any health and safety regulations specific to the emergency condition and an employer's compliance or noncompliance with those regulations shall be a relevant factor if this information is known to the employee at the time of the emergency condition or the employee received training on the health and safety regulations mandated by law specific to the emergency condition.

If an employee is injured or becomes ill on the job as a result of performing job-related duties, the following steps will be taken.

- Notify their supervisor, manager or Chair immediately after an injury or symptoms of illness occur.
- Consult a physician within 24 hours after an industrial injury or illness, even if the injury or illness is considered minor. Delay or refusal to seek medical treatment can result in physical as well as compensatory complications. Whenever possible, treatment should be received from an authorized treatment facility as directed to OC LAFCO.
- If the injury requires minor first aid care, there are first aid kits located in the office of Executive Officer and break room. All rules of reporting apply, even though injury is minor and requires only first aid treatment.
- In the event of a life-threatening injury, employees will be taken to the nearest local hospital. The employee or referring agent of OC LAFCO must inform the hospital staff that they are seeking treatment for an industrial injury.
- In the event of a temporary or permanent industrial disability, the employee is entitled to Workers' Compensation Insurance coverage and/or personal long-term disability benefits in accordance with state and federal laws.

Off-Duty Social and Recreational Activities. OC LAFCO may sponsor social or recreational activities for its citizens and employees, both on OC LAFCO property and off-site. Employee attendance at such social activities, however, is completely voluntary and is not work-related. Neither OC LAFCO nor its insurer will be liable for the payment of workers' compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social or athletic activity that is not part of the employee's work-related duties.

3.26 WORKPLACE VIOLENCE POLICY

OC LAFCO recognizes that workplace violence is a concern among employers and employees across the country. OC LAFCO is committed to providing a safe work environment that is free of violence and the threat of violence. OC LAFCO will not tolerate any violent or dangerous behavior of any kind, whether through physical abuse, threats of any kind, intimidation, coercion, stalking or otherwise, defacing OC LAFCO's property or causing physical damage to the facilities, bring weapons or firearms of any kind onto OC LAFCO's premises, parking lots, or while conducting business, or any other behavior that suggests a propensity towards violence. OC LAFCO strictly prohibits employees, consultants, customers, visitors, or anyone else on OC LAFCO premises or engaging in an OC LAFCO-related activity from behaving in a violent or threatening manner. Moreover, OC LAFCO seeks to prevent workplace violence before it begins and reserves the right to address certain behaviors, even in the absence of violent behavior.

Employees may report all incidents of direct or indirect violence or dangerous behavior to the Executive Officer or Assistant Executive Officer as soon as possible. Reporting incidents and concerns early can help prevent a situation from escalating and becoming even more dangerous. Employees should never attempt to handle a potentially dangerous situation by themselves. Any OC LAFCO employee that violates this policy will be subject to discipline, up to and including termination, as well as potential legal action.

OC LAFCO believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs. Any such instances should be immediately reported to the Executive Officer or General Counsel.

Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the worksite, ranging from threats and verbal abuse to physical assaults and even homicide, that can affect and involve employees, clients, customers and visitors. If any employee observes or becomes aware of any workplace violence related actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify the Executive Officer or Assistant Executive Officer or General Counsel immediately. Further, employees should notify the Executive Officer or Assistant Executive Officer or General Counsel if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace. General examples of prohibited conduct include, but are not limited to the following:

1. The actual or implied threat of harm to an individual, group of individuals, or relatives of those individuals, or the property of any of them, made in person, over the telephone, through the mail, by electronic communication, or by other means.

2. Fighting or challenging another individual to a fight.

3. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.

4. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, or other correspondence.

5. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of OC LAFCO.

6. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for their safety, or the safety of their immediate family, as defined in Civil Code section 1708.7.

7. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.

8. The possession, on OC LAFCO leased or owned property or facilities, of weapons of any kind (including toy or look-alike), unless specifically authorized by the Police Department or appointing authority, or the brandishing of any object in a threatening manner towards another.

9. Loud, disruptive or angry behavior or language which is clearly not part of the typical work environment.

10. Blatant or intentional disregard for the safety or well-being of others.

11. Willful destruction of OC LAFCO's or others personal property.

12. Commission of a violent felony or misdemeanor on OC LAFCO's property.

13. Any other act that a reasonable person would perceive as constituting an act or threat of violence.

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, OC LAFCO will inform the reporting individual of the results of the investigation. To the extent possible, OC LAFCO will maintain the confidentiality of the reporting employee and of the investigation. OC LAFCO may, however, need to disclose results in appropriate circumstances, for example, in order to protect individual safety. OC LAFCO will not tolerate retaliation against any employee who reports workplace violence.

If OC LAFCO determines that workplace violence in violation of this policy has occurred, OC LAFCO will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, reassignment of responsibilities, suspension, or termination. If the violent behavior is that of a non-employee, OC LAFCO will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

Under certain circumstances, OC LAFCO may forego disciplinary action on the condition that the employee takes a medical leave of absence. In addition, OC LAFCO may request that the employee participate in counseling, either voluntarily or as a condition of continued employment.

Immediate Danger: Any employee, who is subjected to, witnesses, or has knowledge of actions that pose an immediate danger to himself/herself or others must report these acts to appropriate authorities immediately. When the incident constitutes an emergency, the employee should place themselves in a safe location, notify their supervisor and/or obtain police assistance by calling 911. Information provided to the emergency dispatcher should include details regarding the exact location and the nature of the incident and the persons and/or weapons involved.

After the incident has been reported to the police the employee should notify their supervisor. The supervisor shall be responsible for contacting the Executive Officer.

The primary objective in dealing with an incident in progress is to stabilize the situation, deescalate the potential for violence, and ensure that there is no harm to any person or property. Once the emergency has passed the supervisor shall be responsible for conducting a thorough investigation of the incident and reporting the findings to the Executive Officer. All employees are required to cooperate fully in any administrative or criminal investigation.

Potential or Suspected Future Incidents: When an employee becomes aware of a potential violation of this policy that does not pose an immediate threat of violence, the employee is responsible for notifying their supervisor. Even without an actual threat, employees should also report any behavior that they may regard as threatening or violent when the behavior is job-related or might be carried out within the OC LAFCO workplace. It will then become the responsibility of the supervisor to prepare a report for the Executive Officer. This report will be evaluated to determine whether there was a violation of the policy and what the appropriate management response should be.

Employees who have reason to believe they or any OC LAFCO employee may be the subject of a future violent act in the workplace or as a result of their OC LAFCO employment, should immediately notify their supervisor.

No employee who, acting in good faith, initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

3.27 DRUG AND ALCOHOL POLICY

A. Overview

The intent of this policy is to provide a drug and alcohol-free work environment for all OC LAFCO employees.

B. Policy

It is OC LAFCO's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on OC LAFCO's premises or while conducting business-related activities off OC LAFCO's premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation of treatment program. Such violations may also have legal consequences.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. They may also wish to discuss these matters with the Executive Officer or Assistant Executive Officer to receive assistance or referrals to appropriate resources in the community.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to participate in a rehabilitation or treatment program through OC LAFCO's health insurance benefit coverage. Leave may be granted if the employee agrees to abstain from use of the problem substance; abides by all OC LAFCO's policies, rules and prohibitions relating to conduct in the workplace; and if granting the leave will not cause OC LAFCO any undue hardship. Please see OC LAFCO's Alcohol and Drug Rehab Leave Policy for more detail.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify OC LAFCO of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

3.28 DESK INSPECTION POLICY

A. Overview

The intent of this policy is to assist in the understanding of the usage of E-mail, the Internet, computer files and software.

B. Policy

Although desks, cabinets and shelves are made available for the convenience of employees while at work, employees should remember that all desks, cabinets and shelves remain the sole property of OC LAFCO. Moreover, OC LAFCO reserves the right to open and inspect desks, cabinets, and shelves, as well as any contents, effects, or articles in desks, cabinets, and shelves. Such an inspection can occur at any time, with or without advance notice or consent. An inspection may be conducted before, during, or after working hours by the Executive Officer or Assistant Executive Officer or designee. Employees have no expectation of privacy in any of these items.

Prohibited materials, including weapons, explosives, alcohol and non-prescribed drugs or medications, may not be placed in a desk, cabinet or shelf. Employees who, if requested, fail to cooperate in any inspection will be subject to disciplinary action, up to and including termination. OC LAFCO is not responsible for any articles that are placed or left in a desk, cabinet, or shelf that are lost, damaged, stolen or destroyed.

3.29 THEFT OR LOSS OF OFFICE EQUIPMENT

A. Overview

The intent of this policy is to outline procedures in the event OC LAFCO office equipment is lost or stolen.

B. Policy

The use of any OC LAFCO-related equipment (computers, cell phones, iPads, projectors, or other office-related equipment) outside of the OC LAFCO offices must be approved by the Executive Officer. OC LAFCO employees are fully responsible for the care and safekeeping of all office equipment offsite. Should an item be stolen or lost offsite while under the care of an OC LAFCO employee, the OC LAFCO employee is responsible to reimburse OC LAFCO for the replacement cost of all lost or stolen items.

The care and safekeeping of an iPad provided to a Commissioner for OC LAFCO- related business is the sole responsibility of the Commissioner. Any loss or theft of the iPad must be reported immediately to the Executive Officer, and the Commissioner is responsible to reimburse OC LAFCO for the replacement cost of the device.

3.30 PROBLEM RESOLUTION PROCEDURE

A. Overview

The intent of this policy is to outline OC LAFCO’s problem resolution procedure.

B. Policy

OC LAFCO is committed to encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response. OC LAFCO strives to ensure fair and honest treatment of all employees. All employees are expected to treat each other with mutual respect. All employees are encouraged to offer positive and constructive criticism.

If there is a disagreement concerning established rules of conduct, policies, or practices, employees may express their concerns through the problem-resolution procedure. No one will be penalized, formally or informally, for voicing a complaint with OC LAFCO in a reasonable, business-like manner, or for using the problem-resolution procedure.

If a situation occurs where an employee believes that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps:

1. Employee presents problem to the Assistant Executive Officer after incident occurs. If the Assistant Executive Officer is unavailable or an employee believes it would be inappropriate to contact the person, employee may present problem to the Executive Officer.

2. The Assistant Executive Officer responds to the problem during discussion or after consulting with the Executive Officer, when necessary, and documents discussion.

3. Employee presents problem to the Executive Officer in writing if problem is unresolved.

The Executive Officer reviews and considers the problem. The Executive Officer informs the employee of decision and forwards a copy of the written response to the employee's file. The Executive Officer has full authority to make any adjustment deemed appropriate to resolve the problem.

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