

I hereby certify that the following agenda was posted at least 72 hours prior to the time of the meeting so noticed below at 24251 Los Alisos Boulevard, Lake Forest, California.



DENNIS P. CAFFERTY, Secretary
of the El Toro Water District and
the Board of Directors thereof



AGENDA

EL TORO WATER DISTRICT

REGULAR MEETING OF THE BOARD OF DIRECTORS

ENGINEERING COMMITTEE MEETING AND FINANCE AND INSURANCE COMMITTEE MEETING

December 16, 2024

7:30 a.m.

**BOARDROOM, DISTRICT OFFICE
24251 LOS ALISOS BLVD., LAKE FOREST, CA 92630**

This meeting will be held in person. As a convenience for the public, the meeting may also be accessed by Zoom and will be available by either computer or telephone audio as indicated below. Because this is an in-person meeting and the virtual component is not required, but rather is being offered as a convenience, if there are any technical issues during the meeting, this meeting will continue and will not be suspended.

Members of the public who wish to comment on any item within the jurisdiction of the District or on any item on the agenda, may attend the meeting in person at the District's office or may observe and address the Meeting by joining at this link:
<https://us02web.zoom.us/j/82666232258> (Meeting ID: [826 6623 2258](https://us02web.zoom.us/j/82666232258)).

Members of the public who wish only to listen to the telephonic meeting may dial in at the following numbers (669) 900-6833 or (346) 248-7799 with the same Meeting ID noted above. Please be advised the Meeting is being recorded.

CALL TO ORDER – President Monin

PLEDGE OF ALLEGIANCE – Vice President Gaskins

ROLL CALL (Determination of a Quorum)

ORAL COMMUNICATIONS/PUBLIC COMMENTS

Members of the public may address the Board at this time or they may reserve this opportunity with regard to an item on the agenda until said item is discussed by the Board. Comments on other items will be heard at the times set aside for “COMMENTS REGARDING NON-AGENDA ENGINEERING COMMITTEE ITEMS” or for “COMMENTS REGARDING NON-AGENDA FIC ITEMS.” The public may identify themselves when called on and limit their comments to three minutes.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Determine need and take action to agendize item(s) which arose subsequent to the posting of the Agenda. (ROLL CALL VOTE: Adoption of this recommendation requires a two-thirds vote of the Board members present, or, if less than two-thirds of the Board members are present, a unanimous vote of those members present.)

1. Consider Board Member’s Request for Remote Participation (AB 2449)

FINANCE AND INSURANCE COMMITTEE MEETING

CALL MEETING TO ORDER – Director Havens

2. Consent Calendar (Reference Material Included)

(All matters under the Consent Calendar will be approved by one motion unless a Board member or a member of the public requests separate action or discussion on a specific item)

- a. Consider approving the minutes of the November 25, 2024 Finance and Insurance Committee meeting (Minutes included).

Recommended Action: Staff recommend that the Board of Directors approve the above Consent Calendar.

FINANCIAL INFORMATION ITEMS

3. **Rate Setting Legislation** (Reference Material Included)

Staff will provide an update on recently adopted legislation specific to the rate setting process and the impacts on the District budget at rates.

4. **Fiscal Year 2025-26 Budget Process Update** (Reference Material Included)

Staff will provide and update on the 2025-26 fiscal year budget schedule and process.

FINANCIAL ACTION ITEMS

5. **Resolution No. 24-12-1 Directors' Compensation Policy**
(Reference Material Included)

The Board will review the Directors' Compensation Policy and will discuss and consider whether an increase to the ETWD Director compensation is warranted and appropriate. Staff will provide an update on the statutory process to adopt an ordinance to increase Director compensation if the Directors determine an increase is warranted and appropriate. Staff is proposing minor non-monetary revisions to Section 4000 of the District Administrative Code – Directors' Compensation Policy.

Recommended Action: The Board of Directors will consider adopting Resolution No. 24-12-1 which adopts the amended El Toro Water District Administrative Code.

RESOLUTION NO. 24-12-1
RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EL TORO WATER DISTRICT
ADOPTING THE AMENDED EL TORO WATER DISTRICT
ADMINISTRATIVE CODE

6. **Resolution No. 24-12-2 Amending the El Toro Water District Internal Revenue Code Section 125 Premium Only Plan**
(Reference Materials Included)

Staff will review and comment on proposed amendments to the El Toro Water District Internal Revenue Code Section 125 Premium Only Plan.

Recommended Action: Staff recommend that the Board adopt Resolution No. 24-12-2 which amends the Districts IRC Section 125 Premium Only Plan.

RESOLUTION NO. 24-12-2

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
EL TORO WATER DISTRICT AMENDING THE
EL TORO WATER DISTRICT
INTERNAL REVENUE CODE (IRC)
SECTION 125 PREMIUM ONLY PLAN

7. **Metropolitan Water District Reverse Cyclic Program**
(Reference Material Included)

Staff will provide an update on the status of the MWD Reverse Cycling Program and the staff recommendation for the District's participation.

Recommended Action: Staff recommend that the Board 1) authorize the General Manager to request participation in the MWD Reverse Cyclic Program in an amount up to 1,000 acre feet and at an investment cost of up to \$1,256,000 and 2) authorize the General Manager to execute an agreement with the Municipal Water District of Orange County to formalize the participation with MWDOC and reference the Master agreement with Metropolitan Water District.

8. **Financial Package - Authorization to Approve Payment of Bills for the Month Ending December 16, 2024 and Receive and File Financial Statements as of November 30, 2024** (Reference Material Included)

The Board will consider approving Bills for Consideration dated December 16, 2024 and Receive and File Financial Statements as of November 30, 2024.

Recommended Action: Staff recommend that the Board 1) approve, ratify and confirm payment of those bills as set forth in the Payment Summary for the month ending December 16, 2024, and 2) receive and file the Financial Statements for the month ending November 30, 2024.

COMMENTS REGARDING NON-AGENDA FIC ITEMS

CLOSE FINANCE AND INSURANCE COMMITTEE MEETING

ENGINEERING COMMITTEE

CALL MEETING TO ORDER – Director Freshley

9. **Consent Calendar**

(All matters under the Consent Calendar will be approved by one motion unless a Board member or a member of the public requests separate action or discussion on a specific item)

- a. Consider approving the minutes of the November 25, 2024 Engineering Committee meeting. (Minutes Included).

Recommended Action: Staff recommends that the Board of Directors approve the above consent calendar.

ENGINEERING ACTION ITEMS

10. **Secondary Clarifier No. 3 Drive Replacement Project** (Reference Material Included)

Staff will review and comment on proposals received for the installation of a new secondary clarifier drive to replace the failed drive on Clarifier No. 3.

Recommended Action: Staff recommend that the Board of Directors authorize the District's General Manager to enter into a contract with Don Peterson Contracting, Inc. in the amount of \$28,562 for work associated with the installation of the new secondary clarifier drive for Clarifier No. 3. Staff further recommend that the Board authorize the General Manager to fund the project costs from the District's Capital Reserves in accordance with the District's adopted Capital Reserve Policy.

ENGINEERING INFORMATION ITEMS

11. **El Toro Water District Operations Report** (Reference Material Included)

Staff will review and comment on the El Toro Water District Operations Report.

12. **El Toro Water District Capital Project Status Report** (Reference Material Included)

Staff will review and comment on the El Toro Water District Capital Project Status Report.

13. Engineering Items Discussed at Various Conferences and Meetings

The Committee will discuss any pertinent Engineering items discussed at Conferences.

COMMENTS REGARDING NON-AGENDA ENGINEERING COMMITTEE ITEMS

CLOSE ENGINEERING COMMITTEE MEETING

ATTORNEY REPORT

CLOSED SESSION

At this time the Board will go into Closed Session as follows:

1. Pursuant to Government Code Section 54957(b)(1) to conduct the General Manager's annual performance evaluation.

REGULAR SESSION

REPORT ON CLOSED SESSION (Legal Counsel)

Mr. Granito will provide an oral report on the Closed Session.

General Manager Compensation

14. **Recommended Action:** The District's Board of Directors will discuss and consider granting the District's General Manager a compensation increase in the amount and form as determined by the Board.

ADJOURNMENT

The agenda material for this meeting is available to the public at the District's Administrative Office, which is located at 24251 Los Alisos Blvd., Lake Forest, Ca. 92630. If any additional material related to an open session agenda item is distributed to all or a majority of the board of directors after this agenda is posted, such material will be made available for immediate public inspection at the same location.

Request for Disability-Related Modifications or Accommodations

If you require any disability-related accommodation, including auxiliary aids or services, in order to participate in this public meeting, please telephone the District's Recording Secretary, Marisol Melendez at (949) 837-7050, extension 225 at least forty-eight (48) hours prior to said meeting. If you prefer, your request may be submitted in writing to El Toro Water District, P.O. Box 4000, Laguna Hills, California 92654, Attention: Marisol Melendez.

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS
AND THE
FINANCE & INSURANCE COMMITTEE MEETING

November 25, 2024

At approximately 7:30 a.m. Vice President Gaskins called the regular meeting to order.

Director Freshley led the Pledge of Allegiance to the flag.

Committee Members MARK MONIN (7:33 a.m.), MIKE GASKINS, KAY HAVENS, and KATHRYN FRESHLEY participated.

Also participating were DENNIS P. CAFFERTY, General Manager, VISHAV SHARMA, CFO, SCOTT HOPKINS, Operations Superintendent, JUDY CIMORELL, Director of Human Resources, GILBERT J. GRANITO, General Counsel, MIKE MIAZGA, IT Manager (Zoom), VICKI TANIOUS, Senior Accountant (Zoom), CAROL MOORE, Laguna Woods City Council Member (Zoom), WYATT MCLEAN, City of Lake Forest Community Member, ROBERT MONTTOYA, Relationship Manager - PFM Asset Management, KYLE TANAKA, CAMP Program Administrator - PFM Asset Management, KEITH STRIBLING, CFA Senior Portfolio Manager - PFM Asset Management, JOE LUDIN, Principal CPA - Clifton Larson Allen LLP, and MARISOL MELENDEZ, Recording Secretary.

Determination of a Quorum

Roll Call:

| | |
|------------------------|---------|
| Director Freshley | present |
| Director Havens | present |
| Vice President Gaskins | present |

Three Board members are present at the meeting and therefore a quorum has been determined.

Oral Communications/Public Comment

There were no comments.

Items Too Late to be Agendized

Vice President Gaskins asked if there were any items received too late to be agendized. Mr. Cafferty replied no.

Finance and Insurance Committee Meeting

At approximately 7:32 a.m. Director Havens called the Finance and Insurance Committee meeting to order.

Consent Calendar

Director Havens asked for a Motion.

Motion: Director Freshley made a motion, seconded by Vice President Gaskins to approve the Consent Calendar.

Roll Call Vote:

| | |
|------------------------|-----|
| Director Freshley | aye |
| Director Havens | aye |
| Vice President Gaskins | aye |

Financial Information Items

California Asset Management Program (CAMP)

Mr. Sharma introduced Robert Montoya, Relationship Manager with PFM Asset Management who provided an oral report on the District's investment performance review for the quarter ended September 30, 2024.

Mr. Montoya provided an update on the market themes for Q3, highlighting inflation as the primary economic factor. He noted a significant shift in September with a 50 basis point rate cut, followed by an additional 25 basis point cut in November, and a potential further cut of 25 basis points expected in December. He emphasized that that

the portfolio remains safe, liquid, and performing well. Mr. Montoya stated the Federal Reserve has acknowledged a rebalancing of its dual mandate of stable prices and maximum employment which are now back in balance. He referred to the graph on page 14, explaining that the grey line represents the average rate cut cycle over the first ten months, providing insight into historical trends and future projections. He also highlighted that the current federal funds rate is 4.50%-4.75%, noting that September's cut was a reaction, November was a continuation, and December's actions will be more telling of 2025.

Mr. Montoya discussed the continued strength in the labor market, which has led to recalibration of market expectations. He referred to the chart on page 15, showing a downward trend in inflation, adding that the unemployment rate remains low. The November job report, released on November 7, 2024, indicated that the unemployment rate held steady at 4.1% unchanged from September and October. He noted that the Federal Reserve is unlikely to take strong signals from this relatively weak report, as it remains data-dependent. He also emphasized the need to consider the impact of recent Florida hurricanes when interpreting this data.

Mr. Montoya highlighted that the Consumer Price Index (CPI) graph shows a positive trend, with inflation overall contributing to a decline. He pointed out that the CPI for August was 2.5%, signaling a promising downward trend in inflation.

Mr. Montoya explained that the Misery Index, which combines the CPI inflation rate and the unemployment rate, stood at 6.7% in September. This figure reflects economic distress from the average consumer's perspective but also signals a promising outlook. He noted that the long-term estimate for unemployment is between 4-5%, while the Federal Reserve's 2% inflation target suggests that the Misery Index, in this context, is consistent with the Fed's goals of achieving their mandate.

Mr. Montoya shared that the Fed Chair Powell emphasized in the latest meeting that the economy is improving at a solid pace, supported by strong consumer expenditure. While labor conditions were slightly concerning over the summer, strong consumer activity has helped maintain a balanced economic outlook, suggesting a soft or no landing scenario where inflation is declining. He noted that the U.S. GDP forecast for Q3 came in slightly stronger than expected. Additionally, the U.S. Real Personal Consumption Expenditure data shows that inflation is easing while unemployment remains steady reflecting a positive rebalancing trend toward pre-pandemic levels.

Director Freshley asked if the U.S. Real Personal Consumption Expenditure chart is adjusted for inflation. Mr. Montoya confirmed that the rates were adjusted for inflation.

Mr. Montoya explained that the Fed's latest "dot plot" graph indicates that FOMC members are projecting a series of rate cuts through the end of 2026. However, he advised that these projections are subject to change, as market conditions tend to fluctuate.

Mr. Montoya discussed the U.S. Treasury Yield Curve, highlighting how it reflects changes over the past quarter, including its volatility. He noted the expectation that yields will remain lower for a longer period.

Mr. Montoya explained that the Managed Portfolio is currently on a buy-and-hold status. As investments mature, they seek advice from District staff, who consider all relevant data and provide recommendations for direction. He noted that the duration distribution is neutral to the benchmark since the setting is buy and hold.

President Monin inquired about the portfolio's duration. Mr. Montoya responded that the benchmark is 0-3 years.

President Monin also asked about future plans. Mr. Cafferty mentioned that staff has discussed investment decisions to be made when maturities occur. Mr. Sharma added that the District recently invested in a \$5 million CD, with several upcoming capital projects in consideration.

Mr. Tanaka explained that CAMP term is a newer investment option that the District utilized for the first time this year, separate from the historical pool. He explained that he met with the District in June to discuss this program, considering potential interest rates cuts. The District placed a \$5 million investment in a CAMP term with a one-year maturity, locking in a 5.23% rate. He clarified that it operates similarly to a CD and is a commingled investment vehicle like the CAMP pool, but it is not insured.

President Monin asked about the entity offering the CD. Mr. Tanaka explained that it is a fixed maturity product with a one-year term (323 days), similar to a money market fund.

President Monin asked about the potential upside if interest rates drop. Mr. Tanaka explained that the upside is the 5.23% rate being locked in. If those funds had remained in the CAMP pool, they would have been subject to depreciating yields as interest rates drop and by locking in the rate for a year, the District avoided the impact of declining short-term rates. Mr. Cafferty added that, in considering available options, staff must also factor in liquidity needs for the capital program and cash availability for ongoing projects.

President Monin inquired about the types of investments in the CAMP pool, asking whether they are jumbos or conforming. Mr. Tanaka explained that the pool primarily consists of treasuries, agencies, and commercial paper. He will confirm whether they are jumbos or conforming. He also noted that since the CAMP term operates under the framework of CAMP, it is limited to California government code

regulations regarding permissible investments. President Monin asked about the average yield for commercial paper. Mr. Tanaka stated he would follow up with this information.

President Monin inquired about the pay down speed of the Agency CMBS and ABS in relation to the Managed Portfolio Activity. Mr. Montoya stated he would follow up with this information.

Mr. Montoya reported on the Managed Portfolio's historical sector allocation through September 2024, highlighting the US Treasury, Corporate and ABS sectors.

President Monin inquired about the Supranational sector. Mr. Tanaka clarified that it refers to multi-national corporations. Mr. Montoya noted that the portfolio's performance is neutral and has overall performed very well against the benchmark.

Mr. Montoya explained that the realized gains on the accrual basis earnings resulted from paydowns in the ABS sector but will confirm of the figure.

Mr. Montoya reported that the Fixed-Income Sector Outlook remains fairly neutral across most aspects, with figures for Q3 being similar to previous quarters.

Mr. Montoya presented the Issuer Diversification report highlighting the current holdings in the portfolio. President Monin expressed concern about the high percentage of holdings in a single sector, in this case automobiles. Mr. Cafferty reassured that staff has discussed this with PFM, and no new purchases have been made in the automobile sector. He explained that releasing these holdings would result in a loss but assured that the funds will be closely monitored, and staff will take action as necessary.

President Monin inquired about the average maturity. Mr. Sharma stated that the holdings will mature within the next couple of years.

Quarterly Review of the District's 401(k) Retirement Savings Plan

Mr. Stribling reported that he compounded the quarterly numbers to reflect year to date data. He noted that this quarter was unique, as both bonds and stocks showed similar gains, resulting in all portfolios performing at roughly the same level. While active managers struggled with some challenges this quarter, they have performed well over longer time periods. Absolute returns had a strong quarter, up about 5.5%.

President Monin asked about the benchmark used for capital preservation. Mr. Stribling explained that each portfolio has a different benchmark with varying amounts. He further noted that fixed-income heavy portfolios outperformed their benchmark, while equity-heavy portfolios underperformed this quarter. He also highlighted that the capital preservation portfolio compounded at 10.5% outperforming its benchmark by 130 basis points.

Mr. Stribling pointed out that the PIMCO RAE Institutional Value Fund has underperformed this year and is currently on watch. President Monin inquired if the Lipper numbers were on the chart. Mr. Stribling confirmed that the Lipper numbers are shown to the right in parentheses.

Mr. Stribling explained that Fiscal policy remains stimulative, supporting GDP growth, while monetary policy, which had been very tight, is now easing, with a potential interest rate cut in December. He noted that a new administration often brings a shift in policy direction, with some of the areas focused on reducing regulatory burdens. Despite some uncertainties, the fiscal policy is more pro-growth, and fiscal policy changes may influence future economic direction.

Mr. Stribling highlighted the risks to portfolio positioning, noting that the Fed may need to halt rate cuts if inflation rises again and geopolitical factors come into play. He added that in terms of the positives, the fundamentals favor a soft landing, with accelerating growth helping to balance out economic conditions.

Mr. Stribling left the meeting at approximately 8:26 a.m.

Financial Action Items

Comprehensive Financial Statement – Audit – Fiscal Year Ended June 30, 2024

Mr. Ludin reported that the District's financial statements for the year ending June 30, 2024, were audited in accordance with Generally Accepted Government Auditing Standards. He explained that while management is responsible for the preparation and fair presentation of the financial statements, the auditors' responsibility is to express an opinion on them. The audit was planned and performed to provide reasonable assurance that financial statements are free from material misstatement. He stated they were able to obtain enough audit evidence to support their unmodified opinion, the highest level of assurance that the District can receive. Mr. Ludin also noted that the final section of the audit report addressed other matters, including Required Supplementary Information, management's discussion and analysis, and required schedules for OPEB.

Mr. Ludin reported that they also conducted an evaluation of the District's internal controls over financial reporting, which included assessing policies and procedures such as payroll and disbursements. He confirmed that the District's internal controls were reliable, which impacted what was reviewed throughout the audit. He added that no material weaknesses or significant deficiencies were identified and management provided the written representations by November 13, 2024.

Director Freshley inquired about Mr. Ludin's observations regarding the District's accounting software transition. Mr. Ludin acknowledged that the transition was a worthwhile endeavor, noting that the previous year's challenge was more significant due to the account conversion process.

Mr. Ludin left the meeting at approximately 8:37 a.m.

Director Havens asked for a Motion.

Motion: Director Freshley made a motion, seconded by President Monin to receive and file the District's Comprehensive Financial Statements for the Fiscal Year ended June 30, 2024.

Roll Call Vote:

| | |
|------------------------|-----|
| Director Freshley | aye |
| Director Havens | aye |
| Vice President Gaskins | aye |
| President Monin | aye |

Financial Package - Authorization to Approve Payment of Bills for the Month Ending November 25, 2024 and Receive and File Financial Statements as of October 31, 2024

Director Freshley inquired about the \$5.4 million pulled from the capital reserves to balance the budget in June of 2024, as shown on page 130 of the package. Mr. Cafferty explained that the capital program is being funded through a combination of revenue from capital charges and various reserves, including carryover capital, accumulated capital, and funds from reserves collected via bond issuance. Mr. Sharma added that the \$5.4 million represents reimbursements from other agencies related to the R-6 project, specifically the shares from Santa Margarita Water District and Moulton Niguel Water District.

Director Havens asked for a Motion.

Motion: President Monin made a motion, seconded by Director Freshley to 1) approve, ratify and confirm payment of those bills as set forth in the Payment Summary for the month ending November 25, 2024, and 2) receive and file the Financial Statements for the month ending October 31, 2024.

Roll Call Vote:

| | |
|------------------------|-----|
| Director Freshley | aye |
| Director Havens | aye |
| Vice President Gaskins | aye |
| President Monin | aye |

Comments Regarding Non-Agenda FIC Items

There were no comments.

Adjournment

There being no further business the Finance and Insurance Committee meeting was closed at approximately 8:42 a.m.

Respectfully submitted

MARISOL MELENDEZ
Recording Secretary

APPROVED:

MARK MONIN, President
of the El Toro Water District and the
Board of Directors thereof

DENNIS P. CAFFERTY, Secretary
of the El Toro Water District and the
Board of Directors thereof



STAFF REPORT

To: Board of Directors

Meeting Date: December 16, 2024

From: Dennis Cafferty, General Manager

Subject: Rate Setting Legislation

On November 5, 1996, California voters approved Proposition 218, the so-called "Right to Vote on Taxes Act." Proposition 218 amended the California Constitution affecting the ability of special districts and other local governments to levy and collect existing and future taxes, assessments, and property-related fees and charges. The District strictly complies with the procedural requirements of Proposition 218 when increasing rates. A growing number of agencies have been the target of litigation claiming deficiencies in their compliance with Proposition 218 requirements. These lawsuits have been unpredictable, expensive to defend extremely costly when an agency loses the case in court.

Over the last several years there has been a significant amount of legislation approved that impacts the manner which public agencies set their rates and notice proposed changes to the public. This legislation has attempted to maintain the focus on compliance with Proposition 218 while also protecting public agencies from either frivolous or delayed claims. The following presents a summary of four particularly impactful senate or assembly bills.

SB 323

SB 323 was approved by the Governor on September 22, 2021.

SB 323 requires any judicial action to attack the District's action to amend water or sewer service fees or charges adopted after January 1, 2022, must be commenced within 120 days of the effective date of the adoption of the rates. The bill also requires the Proposition 218 Notice include a statement that there is a 120-day statute of limitations for challenging any new, increased, or extended fee or charge.

This bill continues to require compliance with 218 Notice Procedures and maintains the public's ability to challenge the rate setting process. It simply prevents claims or litigation being filed or initiated more than 120 days after the rates have been approved.

The District's Proposition 218 Notice includes the required language notifying the public of the 120-day statute of limitations.

SB 1072

SB 1072 was approved by the Governor on September 20, 2024.

Recent litigation has resulted in significant financial impact to defendant public agencies in judgments that require refunding significant amounts to plaintiff customers. SB 1072 remedies that challenge, while still protecting the rights of customers, by requiring future bill credits rather than refunds.

SB 1072 recognized that lawsuits seeking refunds for property-related service rate determinations threaten to compromise the financial stability of water and sewer agencies and local governments providing property-related services and the critical public services they provide. The bill further recognized that any refund would need to be funded by raising rates on future ratepayers, further reducing the affordability of essential public services.

SB 1072 provides that if a court determines that a fee or charge for a property-related water or sewer service violates the California Constitution, then the local agency shall, in the next procedure to increase the fee or charge, credit the amount of the fee or charge attributable to the violation against the amount of the revenues required to provide the property-related service unless a refund is explicitly provided for by statute.

AB 1827

AB 1827 was approved by the Governor on September 22, 2024.

One of the focuses of recent litigation has been to attack the use of peaking factors as a means to calculate rates for different tiers in tiered rated systems.

AB 1827 explicitly states that the incrementally higher costs of water service associated with higher water usage demands, or projected peak water usage, may be allocated using any method that reasonably assesses the water service provider's cost of serving those parcels that are increasing potential water usage demand or projected peak water usage.

The bill further states that the incrementally higher costs of water service associated with higher water usage demand or projected peak water usage may be allocated among customer classes, within customer classes, or both, based on meter size or peaking factors, as those methods reasonably assess the water service provider's cost of serving parcels that increase water usage demand, maximum potential water use, or projected peak water usage.

AB 2257

AB 2257, sponsored by ACWA, was approved by the Governor on September 25, 2024.

In summary, AB 2257 prohibits any person or entity from bringing a judicial action alleging noncompliance with Proposition 218 requirements if they have not raised an objection

during the rate setting process. The bill provides an opportunity for local agencies and ratepayers to resolve objections during the public process and avoid surprise litigation after the rates are implemented.

The purpose of this act is to create an exhaustion of administrative remedies procedure that requires ratepayers to bring an objection regarding a proposed water or sewer fee or charge to the Board's attention prior to the deadline established by the District as part of the rate consideration process. The act also provides an opportunity for the District to address or resolve the objection or objections before the Board makes a final decision on whether to establish a new, or amend a current, rate or charge pursuant to Proposition 218.

It's important to note that the procedure created by AB 2257 retains the meaningful opportunity for a ratepayer to present an objection to a proposed new or amended water or sewer fee or charge but allows the District the opportunity to resolve the objection, before resorting to litigation after the new or amended rate is approved.

In order to incorporate the AB 2257 requirements into its rate setting process the District adopt a resolution or ordinance triggering the requirements including the following procedures.

1. Make available to the public any proposed fee or charge no less than 45 days before the deadline for a ratepayer to submit an objection.
2. Post on the District website a written basis for the fee or charge such as a cost of service analysis or an engineer's report, and include a link to the website in the written notice of the Public Hearing.
3. Mail the written cost of service analysis to a ratepayer or property owner on request.
4. Provide at least 45 days for a ratepayer or assessed property owner to review the proposed fee or assessment and to timely submit to the District a written objection to that fee or charge that specifies the grounds for alleging noncompliance.

To be considered timely, any written objection shall be submitted by a deadline established by the District, which shall be no less than 45 days after the Proposition 218 Notice is provided. Any objection shall be submitted before the end of the public comment portion of a Public Hearing on the rate or charge.

5. Include in the Proposition 218 Notice, a statement in bold-faced type of 12 points or larger that explains:
 - a. All written objections must be submitted to the District within the written objection period set by the District and no later than the end of the public comment period at the Public Hearing and that a failure to timely object in writing bars any right to challenge that fee or charge in court.

- b. All substantive and procedural requirements for submitting an objection to the proposed fee or charge.
- 6. Board Consideration; District Responses. Before or during the Public Hearing, the Board of Directors shall consider and the District shall respond in writing to any timely written objections. The Board may adjourn the Public Hearing to another date if necessary to respond to comments received after the agenda is posted for the meeting at which the Public Hearing occurs. The District's responses shall explain the substantive basis for retaining or altering the proposed fee or charge in response to written objections, including any reasons to reject requested amendments.
- 7. Board Determinations. The Board of Directors, in exercising its legislative discretion, shall determine whether:
 - a. The written objections and the District's response warrant clarifications to the proposed fee or charge.
 - b. To reduce the proposed fee or charge.
 - c. To further review the proposed fee or charge before determining whether clarification or reduction is needed.
 - d. To proceed with the Hearing, to continue it, or to abandon the proposal.

During the 2025-26 budget process staff will request the Board consider a resolution to adopt the procedures defined above to ensure the District rate setting process requires a timely submittal of any substantive objections as contemplated in AB 2257.



STAFF REPORT

To: Board of Directors **Meeting Date:** December 16, 2024

From: Dennis Cafferty, General Manager
Vishav Sharma, CFO

Subject: El Toro Water District 2025-2026 Budget

Staff are preparing to commence the 2025-26 fiscal year budget process. The budget schedule has been adjusted to incorporate the potential AB 2257 procedural requirements.

The draft budget schedule is attached. Once the 2025 Board Budget Committee is assigned, staff will work to verify the specific dates for the Committee meetings as well as the Board Budget Workshop.

**El Toro Water District Board of Directors
Budget Schedule**

FY 2025/2026

| Description | Date | Day |
|---|------------------|------------------|
| Board Budget Committee #1 | 3/5/2025 | Wednesday |
| Board Budget Committee #2 | 3/24/2025 | Monday |
| Board Budget Workshop | 4/2/2025 | Wednesday |
| Distribute Prop 218 Notice | 4/25/2025 | Friday |
| CAG | 5/8/2025 | Thursday |
| FIC Meeting Budget Update | 5/19/2025 | Monday |
| AB 2257 Written Objection Deadline | 6/12/2024 | Thursday |
| Conduct Public Hearing - Regular Board Meeting | 6/26/2025 | Thursday |
| Implement Board Action | 7/1/2025 | Tuesday |



STAFF REPORT

To: Board of Directors

Meeting Date: December 16, 2024

From: Dennis Cafferty, General Manager

Subject: Directors' Compensation Policy

The Directors' Compensation Policy was incorporated as Section 4000 of the District Administrative Code in February of 2024. The policy explicitly requires an annual review at the December meeting of the Board of Directors.

The Directors' Compensation Policy references District Ordinance No. 2018-1 which defines the compensation Directors receive for each day's service. In February 2018 the Board of Directors adopted Ordinance 2018-1 (attached for reference) which authorized an increase in the amount of compensation for ETWD Directors from \$198 per day to \$219 per day effective on May 1, 2018. The Director compensation has not been increased since that date and currently remains at \$219 per day. A survey of Director compensation for several neighboring agencies is attached.

Section 20202 et seq. of the Water Code of California authorizes an increase in the amount of compensation that each governing board may receive, provided that such increase does not exceed an amount equal to five percent (5%) for each calendar year following the effective date of the last adjustment of compensation.

If the Board of Directors determines that an increase in Director compensation is warranted and appropriate, the following process is required by the Water Code.

- Approval of an increase in Director compensation requires a public hearing. The public hearing would require a notice in a newspaper once a week for two successive weeks commencing at least two weeks prior to the public hearing.
- Following the public hearing the Board can consider an agenda item for an increase in Director compensation. The action item would include the adoption, by resolution, of a new Ordinance defining the amount of an increase in Director compensation.
- The effective date of a compensation increase would be at least 60 days from the date of the passage of the Ordinance.

Separate from the discussion of Director compensation, Staff are proposing minor revisions to the Directors' Compensation Policy as noted in the attached redline. The recommended action amends the Administrative Code to incorporate the staff recommended revisions to the current Directors' Compensation Policy.

Should the Board determine that a consideration of a revision of the Director compensation is warranted, Staff will take direction from the Board to schedule a Public Hearing to consider said revision.

| | |
|--------------|--|
| Attachment 1 | Ordinance 2018-1 Providing for Compensation of Members of the Board of Directors |
| Attachment 2 | Directors' Compensation Survey |
| Attachment 2 | Redline Directors' Compensation Policy (Admin Code Section 4000) |

Recommended Action:

The Board of Directors will consider adopting Resolution No. 24-12-1 which adopts the amended El Toro Water District Administrative Code.

RESOLUTION NO. 24-12-1

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EL TORO WATER DISTRICT
ADOPTING THE AMENDED EL TORO WATER DISTRICT
ADMINISTRATIVE CODE

RESOLUTION NO. 24-12-1

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EL TORO WATER DISTRICT
ADOPTING THE AMENDED EL TORO WATER DISTRICT
ADMINISTRATIVE CODE
DIRECTORS' COMPENSATION POLICY**

WHEREAS, the Board of Directors of the El Toro Water District adopted an Administrative Code defining the policies of the El Toro Water District in November, 2023; and

WHEREAS, it is in the best interest of the District that the District's Administrative Code be amended in its entirety to incorporate updates to, and additional policies in, the existing Administrative Code; and

WHEREAS, the Board of Directors of the El Toro Water District has reviewed the Directors' Compensation Policy, Section 4000 of the Administrative Code; and

WHEREAS, the Board of Directors of the El Toro Water District has determined certain revisions to Section 4000 of the Administrative Code – Directors' Compensation Policy are necessary and appropriate.

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the El Toro Water District does hereby adopt the Amended El Toro Water District Administrative Code effective December 16, 2024.

ADOPTED, SIGNED AND APPROVED this 16th day of December 2024.

MARK MONIN, President
El Toro Water District and of the
Board of Directors thereof

ATTEST:

DENNIS P. CAFFERTY, Secretary
El Toro Water District and of the
Board of Directors there of

2024 ORANGE COUNTY BOARD OF DIRECTORS PER DIEM SURVEY
(as of November 4, 2024)

| AGENCY | Service Connections | Combined Operating & Capital Budgets | Per Diem Meeting | Effective Date | Maximum Meetings Per Month |
|--|--------------------------------|---|-----------------------------|---------------------------|---|
| El Toro Water District | 9,971 | \$43.31 million | \$219.00 | March 2018 | 10 |
| Irvine Ranch Water District | 131,300 | \$345.5 million | \$331.00 | January 2024 | 10 |
| Mesa Water District | ~25,000 | \$60.6 million | \$352.00 \$369.00 | July 2023 January 2025 | 10 |
| Moulton Niguel Water District | 55,144 | \$172.5 million | \$294.00 | April 2024 | 10 |
| Municipal Water District of Orange County | n/a | \$232.3 million | \$327.43 | January 2020 | 10 |
| Orange County Water District | ~200 | \$254.6 million | \$330.75 | October 2023 | 10 |
| Santa Margarita Water District | 70,177 | \$124.3 million | \$324.00 | August 2023 | 10 |
| South Coast Water District | 13,837 | \$89.7 million | \$310.00 | 2024 | 10 |
| Yorba Linda Water District | 25,558 | \$55.3 million | \$157.50 | April 8, 2024 | 10 |

ORDINANCE NO. 2018-1

**ORDINANCE OF THE BOARD OF DIRECTORS OF THE
EL TORO WATER DISTRICT PROVIDING FOR
COMPENSATION OF MEMBERS OF THE
BOARD OF DIRECTORS**

THE BOARD OF DIRECTORS OF THE EL TORO WATER DISTRICT, ORANGE COUNTY, CALIFORNIA, DOES ORDAIN as follows:

Section 1. Purpose. This Ordinance is enacted pursuant to Section 20200 et seq. of the Water Code of California, which authorizes an increase in the amount of compensation above the amount of One Hundred Dollars (\$100.00) or more per day that each member of the governing board may receive, provided that such increase does not exceed an amount equal to five percent (5%) for each calendar year following the operative date of the last adjustment of compensation received when the Ordinance is adopted.

Section 2. Compensation. Pursuant to El Toro Water District Ordinance No. 2007-2, which was enacted pursuant to Section 20200 et seq. of the Water Code of California, the operative date of the last adjustment of the compensation received by each member of the Board of Directors was December 1, 2007, which amount of compensation is One Hundred Ninety Eight Dollars (\$198.00) per day for each day's service rendered as a Director pursuant to El Toro Water District Policy Statement 1993-10(IV) as amended from time, not exceeding a total of ten (10) days in any calendar month.

Section 3. Increase of Compensation and Operative Date.

A. On May 1, 2018, each Director shall receive an increase in compensation of Nine Dollars (\$21.00) per day for each day's service rendered, for a total of Two Hundred and Nineteen (\$219.00) per day for each day's service rendered, not exceeding a total of ten (10) days in any calendar month.

Section 4. Effective Date. This Ordinance takes effect on the first day of May, 2018, which is more than sixty (60) days from and after the date of its passage.

THE FOREGOING ORDINANCE was introduced at a meeting of the Board of Directors of the El Toro Water District held on February 22, 2018, following a public hearing, notice of which was published in The Orange County Register, once a week for two successive weeks, on February 7, 2018 and February 14, 2018.

DIRECTORS' COMPENSATION POLICY

1. PURPOSE

- A. Directors in their role of providing governance for the El Toro Water District ("District") are required to:
 - 1. Attend regular, special and committee meetings of the Board of Directors ("Board");
 - 2. Perform assigned duties and responsibilities, as officers;
 - 3. Represent the District at industry and community events; and
 - 4. Attend industry specific conferences and educational events.
- B. The El Toro Water District ("District") shall adhere to Government Code Sections 53232 through 53232.4 when dealing with issues of director remuneration and reimbursement.
- C. The Directors' Compensation Policy shall be reviewed annually at the December meeting of the Board of Directors.

2. QUALIFIED EVENTS

Subject to the District's enabling statutes, attendance at the following qualifies a Director to be eligible to receive compensation.

- A. A meeting of the District's Board of Directors;
- B. A meeting of a Committee of the District's Board of Directors to which the Director has been assigned;
- C. A conference or organized educational activity (subject to the prior approval of the President or Board) conducted in compliance with Government Code Section 54952.2(c), including but not limited to ethics training required by Government Code Section 53234.
- D. Official Business Representing the District (subject to the prior approval of the President or Board) at the following non-exclusive functions and activities:
 - 1. South Orange County Wastewater Authority Board of Directors (SOCWA)
 - 2. SOCWA Finance Committee
 - 3. Santiago Aqueduct Commission (SAC)
 - 4. MWDOC Board Meeting
 - 5. MWDOC Administration & Finance Committee Meeting
 - 6. MWDOC Planning & Operations Committee Meeting
 - 7. MWDOC MET Directors Workshop

8. MWDOC Elected Officials Forum
9. MWDOC/OCWD Joint Planning Committee Meeting
10. MWDOC Policy Forum
11. Local Agency Formation Commission (LAFCO)
12. Water Advisory Committee of Orange County (WACO)
13. WACO Planning Committee
14. Independent Special Districts of Orange County (ISDOC)
15. Local TV-Appearances
16. Orange County Water Association (OCWA)
17. Water Reuse of Orange County
18. Joint Powers Insurance Authority
19. South OC Watershed Management Area Executive Committee
20. South Orange County Agencies Group Meeting
21. So Cal Water Committee
22. South Orange County Economic Coalition
23. Local Chamber of Commerce Functions
24. City Council Meetings in the Cities served by the District
25. Meetings between Board President ~~and~~ Vice President and District General Manager or Attorney
- ~~26. Meetings between Board President and District General Manager or Attorney~~
26. Community Advisory Group Meetings
27. Supervisor/Congressperson Meetings in the Areas Served by the District
28. Association of California Water Agencies Committees
- 27-29. Other functions defined in the "Board/Staff Organizational and Standing Committee Assignments" as periodically revised and adopted by Resolution of the Board of Directors

- E. Other functions and activities determined on an Ad Hoc basis as being beneficial to the District as approved by the Board President or the Board.

3. **COMPENSATION**

- A. When serving in the above capacity a Director shall receive a per diem compensation as established by Ordinance No. 2018-1 of the District for "each day" so served, at the request of the Board. Only one per diem compensation will be paid for each calendar day (regardless of the number of meetings or events attended on a calendar day) up to the maximum number of days permitted by the District's Ordinance No. 2018-1 (which presently is set at 10 in any calendar month—~~Ordinance No. 2018-1~~). Attendance at meetings and conferences shall be deemed to have been rendered "at the request of the Board" if:
1. The Director's attendance is requested through posting of a notice of a District meeting;

2. The Director's attendance is requested by the President of the Board; or
 3. The Director's attendance is approved by Board action at a regular or special meeting of the Board of Directors.
- B. Directors shall submit their compensation report form to the District office within the first week of each month for the prior month. The Board President or the General Manager will approve and sign director compensation forms before payment can be processed. The Board President's compensation Form shall be approved by the General Manager or Assistant General Manager.
- C. It is against the law to falsify compensation reports. Penalties for misuse of public resources or violating this policy may include, but are not limited to, the following:
1. Restitution to the District;
 2. Civil penalties for misuse of public resources pursuant to Government Code Section 8314; and
 3. Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, penalties for which include 2, 3 or 4 years in prison.
- D. In the event of a dispute or misunderstanding regarding compensation, the matter shall be reviewed by two members of the Board appointed by the Board (other than the Board member whose account is being questioned) and their findings and recommendations will be transmitted to the Board for a determination. The Board determination shall be final.
- E. Changes in the compensation of Board members will require the approval of the Board during a noticed public hearing of the Board held at least 60 days prior to the effective date of the change, no more than once in any twelve-month period.

R 93-9-2 09/16/93; R 94-5-2 05/19/94; R 99-7-2 07/15/99; R 03-4-2 04/24/03; R 06-02-1 02/23/06;
R 06-9-1 09/28/06; R 07-9-2 09/27/07; R 18-3-3 03/22/18; R 20-5-1 05/28/20; R 20-11-3 11/24/20;
R 20-12-6 12/16/20; R 23-4-2 04/24/23; R 24-2-1 02/20/24; R 24-12-1 12/11/24



STAFF REPORT

To: Board of Directors

Meeting Date: December 16, 2024

From: Judy Cimorell, Director Human Resources

Subject: El Toro Water District Section 125 Premium Only Plan

In 1995 the El Toro Water District ("District") established a premium only 125 Plan. The plan is so titled since it refers to Section 125 of the Internal Revenue Code. This section of the code allows companies to establish health and welfare plans for their employees and allows the employees to pay their portion of the premiums on a "pre-tax" basis.

The Board previously approved the addition of a Flexible Spending Account (FSA) to the District's benefits package on November 26, 2025. As a result, the District is now required to incorporate the FSA into its Section 125 Plan due to its pre-tax benefit status. This integration is essential to ensure compliance with applicable regulations.

The Section 125 Plan Document has been updated to formally include the FSA as a benefit option. This amendment covers both healthcare and dependent care FSAs.

Staff use a third party service for amendments to the Section 125 Plan. Core Documents provided updates to incorporate the healthcare and dependent care FSAs as well as certain other administrative updates to make the plan consistent with current practice and law.

The updated Section 125 Plan is included in the reference materials. If approved, the revised Plan will take effect on January 1, 2025.

Recommended Action:

Staff recommend that the Board adopt Resolution No. 24-12-2 which amends and restates the District's IRC Section 125 Premium Only Plan.

RESOLUTION NO. 24-12-2

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
EL TORO WATER DISTRICT AMENDING AND RESTATING THE
EL TORO WATER DISTRICT
INTERNAL REVENUE CODE (IRC)
SECTION 125 PREMIUM ONLY PLAN

RESOLUTION NO. 24-12-1

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
EL TORO WATER DISTRICT AMENDING AND RESTATING THE
EL TORO WATER DISTRICT
INTERNAL REVENUE CODE (IRC)
SECTION 125 PREMIUM ONLY PLAN**

WHEREAS, the Board of Directors of the El Toro Water District has previously adopted the El Toro Water District “Section 125 Premium Only Plan with HSA Module” allowing for payment of medical benefit costs by employees on a pre-tax basis; and

WHEREAS, at the November, 2024 Board Meeting the Board of Directors approved the addition of a Flexible Spending Account Plan allowing for payment of eligible medical costs and dependent care costs by employees on a pre-tax basis.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the El Toro Water District does hereby amend and restate the El Toro Water District “Section 125 Premium Only Plan with HSA module” as set forth in Exhibit “A” which is attached hereto.

BE IT FURHTER RESOLVED, that the amended and restated “Section 125 Premium Only Plan with HSA module” is approved effective January 1, 2025.

ADOPTED, SIGNED AND APPROVED, this 19th day of December 2024.

MARK MONIN, President
El Toro Water District and of
the Board of Directors thereof

ATTEST

DENNIS P. CAFFERTY, Secretary
El Toro Water District and of
the Board of Directors thereof

2024 | **CORE HSA**
PREMIUM + HSA SAVINGS
PLAN DOCUMENT



Core Documents

Resolution To Adopt 1

**Premium Only Plan 2
Document**

**Employee's Summary 3
Plan Description**

Election Form 4

**Administering 5
Section 125
Premium Only Plans**

SUMMARY OF PLAN SPONSOR RESPONSIBILITIES

As the Plan Sponsor/Administrator, you will have sole responsibility to comply with all plan administration, implementation, amendments, filing, reporting, disclosure and plan compliance requirements imposed by the plan, ERISA, the Internal Revenue Code or any other applicable law, specifically including, but not limited to:

- Reviewing the sample documents (plan, summary plan description, salary redirection agreements and nondiscrimination information) with legal counsel, executing the Plan Adoption Agreement before the first day of the plan year, and distributing the summary plan description to employees on or before their enrollment date.
- Ensuring that only common law employees participate in the plan [employees of companies described in IRC Section 414 (b), (c) or (m) and listed in the plan as participating affiliates may also participate] and ensuring that the terms of its plan document are enforced.
- Conducting initial and annual enrollments, and collecting signed Salary Redirection Agreements from employees prior to their effective date of participation. (In the absence of a valid change in status, currently eligible employees should be enrolled *prior to* the plan effective date.)
- Form 5500 Annual Returns have been suspended for Premium Only Plans. However, you may be required to file a Form 5500 Annual Return for the component benefit plans offered through the Premium Only Plan (*component benefit plans would be any self-funded or partially self-funded health plans sponsored by you through ERISA, Medical Flexible Spending Accounts (FSA) with more than 100 employees are still required to file a Form 5500*).
- Performing nondiscrimination testing required by the Internal Revenue Code (including, but not limited to: ensuring that a nondiscriminatory classification of employees is eligible for the plan, that contributions and benefits do not discriminate in favor of highly compensated employees, and that no more than 25% of the total pre-tax benefits is received by officers and owners). Additional nondiscrimination testing may be required for the component benefits offered through the cafeteria plan (including insurance and flexible spending account benefits). You will be responsible to perform nondiscrimination testing. Nondiscrimination testing should be performed shortly after enrollment and again if there is a significant change in employee participation.
- Determining whether election changes are permissible in accordance with the provisions of the plan and Internal Revenue Code requirements.
- Ensuring that benefits offered under the plan qualify for inclusion in a Section 125 Premium Only Plan.
- Retaining documentation relating to plan operations that may be requested in an IRS or Department of Labor audit of plan operations - including, but not limited to: nondiscrimination testing information, executed copies of the plan, salary redirection agreements, plan amendments, resolutions adopting the plan, and Form 5500s - for seven years after the close of each plan year.

Section 125 and W-2 Reporting

Where do I report Section 125 Plan benefits on my employees' Form W-2s?

Dependent Care benefits are shown in box 10. Health Savings Account contributions are shown in box 12, code W. Contributions to a medical reimbursement account are not specifically shown. *Effective January 1, 2012, most employers are required to report the cost of employer-sponsored health coverage in box 12, code DD. Refer to IRS Notices 2010-69 and 2011-28, and to your tax professional for more details and proper reporting.*

The Federal and Social Security wages will be decreased by all pre-tax contributions. The State taxable income for most States will be the same as the Federal wage amount. The Local Wage box may not match the Federal amount. Many localities do not recognize these plans, so local tax (if any) might be on unreduced pay, before pre-tax deductions. If so, the Local box will show higher wages than the Federal/Social Security boxes.

Section 125 and State Income Tax

The states generally follow Section 125 federal law in their tax treatment of flex plan contributions. Some states, such as New Jersey, California, Alabama, and Pennsylvania, may not permit some or all pre-taxed salary reduction contributions to be exempt from state income tax. Check with your state Department of Revenue or taxing authority.

Section 125 and Local Income Tax

Some cities and municipalities impose their own income taxes on salary reduction contributions to flex plans. Please contact your accountant for specific flex plan salary reduction local taxation issues.

Section 125 and State Unemployment Tax

Currently, most states impose unemployment taxes on flex plan contributions. Please contact your accountant or tax specialist for information on whether your state unemployment taxes may be exempt on flex plan contributions.

Section 125 and Form 1099 Reporting Requirements

If you pay health care providers directly through a Medical Expense Reimbursement Plan you are required to file a Form 1099-MISC for each health care provider for whom payments exceed \$600 per year. Thus, you may want to limit reimbursements to only plan participants.

Company Owners and Section 125?

Question 1: When do owners or shareholders have to be excluded from a Section 125 plan?

Answer: In all cases except for:

1. ownership of shares in a C-Corporation, and
2. ownership of 2% or less in an S-Corporation.

Put another way the partners, members of an LLC, sole proprietors, or greater than 2% shareholders of an S corporation) cannot participate in a Premium Only Plan

Question 2: When can a company owner (whose spouse is also an employee) make use of pre-tax dollars in a Section 125 Plan? The owner holds 100% of the company ownership. Assume that discrimination is not an issue.

Answer: Code §125(d)(1)(a) states that all participants in a cafeteria plan must be employees. The proposed regulations at §1.125-1 define what is meant by "employee."

The term "employees" includes present and former employees of the employer. All employees who are treated as employed by a single employer under subsections (b), (c), or (m) of section 414 are treated as employed by a single employer for purposes of section 125. The term "employees" does not, however, include self-employed individuals described in section 401(c) of the Code.

Further, it appears that persons who own more than 2 percent of the shares of an S corporation are not considered "employees." (An S corporation is a corporation that has elected to be treated as an "S" corporation for income tax purposes, pursuant to subchapter S of the normal income tax provisions in the Code.) See Code section 1372, which states that for purposes of the "fringe benefits" portions of the Code an S corporation is treated as a partnership and a more than 2 percent shareholder of the S corporation is treated as a partner of such partnership.

Remember to apply the "attribution" rules of Code section 318. The spouse of a 100% owner of an S corporation, or the spouse of an LLC (Limited Liability Company) owner, or a sole proprietorship, who is not employed by the company, would be considered to be the 100% owner as well. In this question, therefore, neither the company owner nor the owner's spouse could participate in the cafeteria plan.

If the corporation is a C corporation for federal income tax purposes, nothing prevents the 100% owner of the corporation's shares from participating. He or she could be an employee and therefore eligible for participation. The spouse of the 100% owner also would be eligible for participation even though attribution would apply to a C corporation owner's spouse.

A sole proprietor who employs his or her spouse (as a bona fide employee!) may not participate in a Section 125 plan, but the spouse may participate. This is because there are no shares to attribute in a sole proprietorship.

Incidentally, this method also applies to family health insurance coverage. The non-owning spouse could elect family coverage (covering, as a dependent, the spouse with 100% ownership of the company.) The health insurance premium would be completely deductible.

SECTION 1

RESOLUTION TO AMEND

PLACE THIS ONE PAGE IN FRONT OF YOUR EXISTING RESOLUTION TO ADOPT

SECTION 1 SHOULD CONSIST OF:

- 1- A NEW RESOLUTION TO AMEND &
- 2- ANY OLDER RESOLUTIONS TO ADOPT/AMEND

EL TORO WATER DISTRICT
RESOLUTION TO AMEND
IRC SECTION 125 PREMIUM ONLY PLAN

WHEREAS, El Toro Water District has previously determined on August 1, 1995, that it would be in the best interests of its employees to adopt a "Section 125 Premium Only Plan with HSA Module" allowing for pre-taxed medical benefit coverage and pre-taxed HSA savings, so-called; be it known that a vote was taken, and all were in favor to amend and restate said Plan, herein.

RESOLVED, that El Toro Water District amend their so-called "Section 125 Premium Only Plan with HSA Module", all in accordance with the specifications annexed hereto; and, be it known that the "El Toro Water District Premium Only Plan" Document was amended effective January 1, 2024.

RESOLVED FURTHER, that the Company undertake all actions necessary to implement and administer said amendments.

IN WITNESS WHEREOF, I have executed my name for the above named Company on January 1, 2024.

ATTEST:

| | |
|------------------|--------------------------------|
| _____ Witness | By: _____ Dennis P. Caffery |
|------------------|--------------------------------|

SECTION 2

SECTION 125 PLAN DOCUMENT

PLACE ALL PAGES OF THE PLAN DOCUMENT AFTER TAB 2

AUTHORIZED SIGNER SHOULD EXECUTE THE SIGNATURE PAGE
AT THE END OF THE NEW PLAN DOCUMENT

EL TORO WATER DISTRICT
PREMIUM ONLY PLAN

PURPOSE

The El Toro Water District Premium Only Plan (“Plan”), originally adopted by El Toro Water District effective August 1, 1995, is amended and restated herein effective January 1, 2024. The purpose of the Plan is to allow Employees of El Toro Water District and other Participating Employers, to choose between at least one permitted taxable benefit, such as cash compensation from existing income and at least one qualified benefit such as health care coverage under medical plan(s) sponsored by El Toro Water District (via salary reduction).

El Toro Water District intends that the Plan qualify as a “cafeteria plan” under section 125 of the Internal Revenue Code of 1986 ("Code") as amended, and that the Medical Insurance Benefits that an Employee elects to receive under the Plan be eligible for exclusion from the Employee’s income for federal income tax purposes.

Although this Plan has been reduced to writing in order to comply with section 125 of the Code, the Plan shall also serve as an amendment to each of the health plans described in Schedule A affected by its provisions in order to permit the benefits of this Plan to be fully implemented.

Table of Contents

Section

- 1 DEFINITIONS
- 2 PARTICIPATION IN THE PLAN
 - 2.1 Eligibility to Participate
 - 2.2 Procedure for and Effect of Participation
 - 2.3 Cessation of Participation
 - 2.4 Recommencement of Participation
 - 2.5 FMLA Leaves of Absence
 - 2.6 Non-FMLA Leaves of Absence
 - 2.7 Uniformed Service Under USERRA
 - 2.8 Definition of Dependent
- 3 BENEFITS
 - 3.1 Benefits Offered
 - 3.2 Premium Payment Benefits
 - 3.3 Election of Benefits
 - 3.4 Provision of Benefits
 - 3.5 Employer and Employee Contributions

- 3.6 Nondiscrimination
- 3.7 Insurance Contracts
- 3.8 Using Salary Reduction to Make Contributions
- 3.9 Funding the Plan
- 4 IRREVOCABILITY OF ELECTIONS AND EXCEPTIONS
 - 4.1 Irrevocability of Elections
 - 4.2 Procedure for Making New Elections if Exceptions to Irrevocability Applies
 - 4.3 Change in Status Defined
 - 4.4 Events Permitting Exceptions to Irrevocability Rule for All Benefits
 - 4.5 Election Modification For HSA Benefits May Be Changed At Any Time
 - 4.6 Election Modifications Required by Plan Administrator
- 5 PLAN ADMINISTRATOR
 - 5.1 Plan Administrator
 - 5.2 Powers of the Plan Administrator
 - 5.3 Reliance on Participant, Tables, etc.
 - 5.4 Provision for Third-Party Plan Service Providers
 - 5.5 Fiduciary Liability
 - 5.6 Compensation of Plan Administrator
 - 5.7 Bonding
 - 5.8 Insurance Contracts
 - 5.9 Inability to Locate Payee
 - 5.10 Effect of Mistake
- 6 PREMIUM ONLY PLAN MODULE
 - 6.1 Benefits
 - 6.2 Contributions for Cost of Coverage
 - 6.3 Medical Insurance Benefits Provided Under the Medical Insurance Plan
 - 6.4 Medical Insurance Benefits and COBRA
- 7 HSA MODULE
 - 7.1 Health Savings Account Option
 - 7.2 Contributions for Cost of HSA & Maximum Limits
 - 7.3 HSA Records
 - 7.4 Tax Treatment of HSA Contributions and Distributions
 - 7.5 Trust/Custodial Agreement
- 8 MISCELLANEOUS
 - 8.1 Amendment and Termination
 - 8.2 Effect of Plan on Employment
 - 8.3 Alienation of Benefits
 - 8.4 Facility of Payment
 - 8.5 Proof of Claim
 - 8.6 Status of Benefits
 - 8.7 Applicable Law
 - 8.8 Source of Benefits

- 8.9 No Reversion to Employer
- 8.10 Severability
- 8.11 Heirs and Assigns
- 8.12 Headings and Captions
- 8.13 Information to be Furnished

Section 1

DEFINITIONS

The words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context, and pronouns shall be interpreted so that the masculine pronoun shall include the feminine and the singular shall include the plural.

“Adoption Agreement” means the written agreement by which an Affiliated Company adopts this Plan.

“Affiliated Company” means:

A. any company which is a member of a controlled group of corporations with the Employer within the meaning of section 1563(a) of the Code, determined without regard to sections 1563(a) (4) and (e) (3) (C);

B. all organizations under common control with the Employer within the meaning of section 414 (c) of the Code;

C. all organizations which are included with the Employer in an affiliated service group within the meaning of section 414 (m) of the Code; or

D. any other entity required to be aggregated with the Employer pursuant to regulations under section 414 (o) of the Code.

“Beneficiary” means the person, persons or trust designated by written revocable designation filed with the Plan Administrator by the Participant to receive payments under this Plan, including the Participant and any dependents of a Participant.

“Cash” for purposes of section 125, cash means cash from current compensation (including salary reduction), payment for annual leave, sick leave, or other paid time off, severance pay, property, and certain after-tax employee contributions.

“Change in Status” has the meaning described in Section 4.3.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

“Code” means the Internal Revenue Code of 1986 as amended, and the same as may be amended from time to time.

“Dependent” has the meaning described in Section 2.8.

“Effective Date” means August 1, 1995; amended and restated January 1, 2024.

“Eligible Employee” means any non-union Employee regularly scheduled to work 30 or more hours per week for a Participating Employer.

“Employee” means an individual that the Employer classifies as a common-law employee, leased employee, or full time life insurance salesman, and who is on the Employer’s W-2 payroll, but does not include the following: (a) individuals classified by the Employer as a contract worker, independent contractor, temporary employee, or casual employee for the period during which such individual is so classified, whether or not any such individual is on the Employer’s W-2 payroll; (b) any individual who performs services for the Employer but who is paid by a temporary or other employment or staffing agency for the period during which such individual is paid by such agency; (c) any employee covered under a collective bargaining agreement; (d) any self-employed individual; (e) any partner in a partnership; and (f) any more-than-2% shareholder in a Subchapter S corporation. The term “Employee” does include “former Employees” for the limited purpose of allowing continued eligibility for benefits under the Plan for the remainder of the Plan Year in which an Employee ceases to be employed by the Employer, but only to the extent specifically provided elsewhere under this Plan.

“Employer” means El Toro Water District and any other business organization which succeeds to its business and elects to continue this Plan.

“Enrollment Period” means the calendar month preceding the beginning of any Plan Year.

“Entry Date” means the first day of the month following completion of 30 consecutive days of active employment as an Eligible Employee.

“ERISA” means the Employee Retirement Income Security Act of 1974, and the same as may be amended from time to time.

“FMLA” means the Family and Medical Leave Act of 1993, as amended.

“Health Savings Account” or **“HSA”** means a health savings account established under Code § 223. Such arrangements are individual trusts or custodial accounts, each separately established and maintained by an Employee with a qualified trustee/custodian.

“High Deductible Health Plan” means the high deductible health plan offered by the Employer that is intended to qualify as a high deductible health plan under Code § 223(c)(2), as described in materials provided separately by the employer. The High Deductible Health Plan may or may not be the sole Medical Insurance Plan eligible for pre-tax Salary Reduction funding hereunder.

“Highly Compensated Employee” means any Employee defined as such in section 414(q) of the Code.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended.

“HSA Benefits” has the meaning described in Section 7.1.

“HSA-Eligible Individual” means an individual who is eligible to contribute to an HSA under Code § 223 and who has elected qualifying High Deductible Health Plan coverage offered by the Employer and who has not elected any disqualifying non-High Deductible Health Plan coverage offered by the Employer.

“Key Employee” means any Employee defined as such in section 416(I) (I) of the Code.

“Medical Insurance Benefits” means a health care coverage option, available from time to time under the Plan, as set forth in Schedule A hereto.

“Participant” means any Eligible Employee who has met the conditions for participation set forth in Section 2.

“Participating Employer” means El Toro Water District and any Affiliated Company that adopts this Plan with the consent of the Employer. As of the Amendment Date, the Employer is the only Participating Employer.

“Plan” means the El Toro Water District Premium Only Plan which is described herein and as amended from time to time, and which is intended to constitute a separate, written Plan for the exclusive benefit of Eligible Employees.

“Plan Number” or “PN” assigned by El Toro Water District is 501.

“Plan Sponsor” means El Toro Water District (“Employer”).

“Plan Year” means the twelve-month period commencing each January 1 and ending on the subsequent December 31.

“Premium Payment Benefits” means the amount set aside for Medical Insurance Benefits under Section 3.2 and credited to the Participant’s Premium Only Account.

“Premium Only Account” means the account established in each Participant’s name as provided under Section 3.2 and which is used to record the allocation of Premium Payment Benefits for the expenditure of the Medical Insurance Benefits elected by a Participant.

“Premium Expense” means the expense identified with the Medical Insurance Benefits elected by a Participant in accordance with Section 3.2.

“Qualified Benefits” For purposes of section 125, Qualified Benefit means benefits excludible from an employee’s gross income under a specific provision of the Code and must not defer compensation, except as specifically allowed in section 125(d)(2)(B), (C) or (D). Examples of qualified benefits include the following: group-term life insurance on the life of an employee (section 79); or employer-provided accident and health plans. A cafeteria plan may also offer long-term and

short-term disability coverage as a qualified benefit (see section 106). See paragraph (q) in Sec. 1.125-1 for nonqualified benefits.

“QMCSO” means a qualified medical child support order, as defined in ERISA Section 609(a).

“Salary Reduction Agreement” means a voluntary agreement whereby an Employee agrees to reduce his compensation for the forthcoming Plan Year (or, if the agreement becomes effective after the beginning of the Plan Year, for the balance of the Plan Year) for purposes of obtaining the Medical Insurance Benefits offered by the Plan.

“Spouse” means an individual who is legally married to a Participant as determined under applicable state law (and who is treated as a spouse under the Code).

Section 2

PARTICIPATION IN THE PLAN

2.1 Eligibility to Participate. Each Eligible Employee may elect to participate in the Plan if the Individual satisfies all of the following: (a) is an Employee of a Participating Employer; (b) is working 30 or more hours per week; and (c) has been employed by the Employer for 30 consecutive days. Eligibility shall also be subject to the additional requirements, if any, specified in the Medical Insurance Plan.

Self-employed individuals are not eligible to participate in the Plan. New proposed regulations make clear that:

- sole proprietors,
- partners,
- directors of corporations, and
- 2-percent shareholders of an S corporation

are not employees for purposes of this Plan. (C Corporation owners who are employees and a director of the Corporation are eligible to participate in the Plan in their capacity as an Employee).

2.2 Procedure for and Effect of Participation. An Eligible Employee may become a Participant in the Plan by executing a Salary Reduction Agreement under which the Employee agrees to reduce his Compensation for the forthcoming Plan Year (or, if such Salary Reduction Agreement becomes effective after the beginning of the Plan Year, for the balance of the Plan Year). The Salary Reduction Agreement shall be governed by Section 3 hereof. By becoming a Participant, each individual shall for all purposes be deemed conclusively to have consented to the provisions of the Plan and all amendments thereto.

An Eligible Employee's spouse or dependents can only receive benefits through the Plan if they are named on an Eligible Employee's qualifying policy. Eligible Employee's spouse or dependents can not participate in the Plan independently.

2.3 Cessation of Participation. A Participant will cease to be a Participant as of the earliest of:

- A. the date on which the Plan terminates;
- B. the date on which he ceases (because of retirement, termination of employment, layoff, reduction of hours, or any other reason) to be an Eligible Employee. Notwithstanding the foregoing, for purposes of pre-taxing COBRA coverage certain Employees may continue eligibility for periods on the terms and subject to the restrictions described in Section 6.4;
- C. the first day of any Plan Year for which he has elected not to participate in the Plan;

- D. the date on which he revokes his election and elects not to participate in Medical Insurance Benefits, on account of and consistent with a change in family status in accordance with Section 4.3; or
- E. the date on which he fails to make a contribution in accordance with Section 3.5.

Termination of participation in this Plan will automatically revoke the Participant's elections. The Medical Insurance Benefits will terminate as of the date specified in the Medical Insurance Plan.

Notwithstanding the foregoing, a former Eligible Employee who is absent by reason of sickness, disability, or other authorized leave of absence may continue as a Participant for so long as such authorized absence continues in accordance with such rules and regulations as the Participating Employer may direct.

2.4 Recommencement of Participation. If a Participant terminates his or her employment for any reason, including (but not limited to) disability, retirement, layoff, or voluntary resignation, and then is rehired within 30 days or less after the date of a termination of employment, then the Employee will be reinstated with the same elections that such individual had before termination. If a former Participant is rehired more than 30 days following termination of employment and is otherwise eligible to participate in the Plan, then the individual may make new elections as a new hire as described in Section 3.2. Notwithstanding the above, an election to participate in the Premium Payment Module will be reinstated only to the extent that coverage under the Medical Insurance Plan (here, major medical insurance) is reinstated. If an Employee becomes ineligible for any reason (other than for termination of employment), including (but not limited to) a reduction of hours, and then becomes an Eligible Employee again, the Employee must complete the waiting period described in Section 2.1 before again becoming eligible to participate in the Plan.

2.5 FMLA Leaves of Absence. Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under the FMLA, then to the extent required by the FMLA, the Employer will continue to maintain the Participant's Medical Insurance Benefits on the same terms and conditions as if the Participant were still an active Employee. That is, if the Participant elects to continue his or her coverage while on leave, the Employer will continue to pay its share of the Contributions.

An Employer may require participants to continue all Medical Insurance Benefit coverage for Participants while they are on paid leave (provided that Participants on non-FMLA paid leave are required to continue coverage). If so, the Participant's share of the Contributions shall be paid by the method normally used during any paid leave (e.g., on a pre-tax Salary Reduction basis).

In the event of unpaid FMLA leave (or paid FMLA leave where coverage is not required to be continued), a Participant may elect to continue his or her Medical Insurance Benefits during the leave. If the Participant elects to continue coverage while on FMLA leave, then the Participant may pay his or her share of the Contributions in one of the following ways:

- with after-tax dollars, by sending monthly payments to the Employer by the due date established by the Employer;
- with pre-tax dollars, by having such amounts withheld from the Participant's ongoing Compensation (if any), including unused sick days and vacation days, or pre-paying all or a portion of the Contributions for the expected duration of the leave on a pre-tax Salary Reduction basis out of pre-leave Compensation. To pre-pay the Contributions, the Participant must make a special election to that effect prior to the date that such Compensation would normally be made available (pre-tax dollars may not be used to fund coverage during the next Plan Year); or
- under another arrangement agreed upon between the Participant and the Plan Administrator (e.g., the Plan Administrator may fund coverage during the leave and withhold "catch-up" amounts from the Participant's Compensation on a pre-tax or after-tax basis) upon the Participant's return.

If the Employer requires all Participants to continue Medical Insurance Benefits during an unpaid FMLA leave, then the Participant may elect to discontinue payment of the Participant's required Contributions until the Participant returns from leave. Upon returning from leave, the Participant will be required to repay the Contributions not paid by the Participant during the leave. Payment shall be withheld from the Participant's Compensation either on a pre-tax or after-tax basis, as agreed to by the Plan Administrator and the Participant.

If a Participant's Medical Insurance Benefits coverage ceases while on FMLA leave (e.g., for non-payment of required contributions), then the Participant is permitted to re-enter the Medical Insurance Benefits upon return from such leave on the same basis as when the Participant was participating in the Plan prior to the leave, or as otherwise required by the FMLA. In addition, the Plan may require Participants whose Medical Insurance Benefits coverage terminated during the leave to be reinstated in such coverage upon return from a period of unpaid leave, provided that Participants who return from a period of unpaid, non-FMLA leave are required to be reinstated in such coverage.

2.6 Non-FMLA Leaves of Absence. If a Participant goes on an unpaid leave of absence that does not affect eligibility, then the Participant will continue to participate and the Contributions due for the

Participant will be paid by pre-payment before going on leave, by after-tax contributions while on leave, or with catch-up contributions after the leave ends, as may be determined by the Plan Administrator. If a Participant goes on an unpaid leave that affects eligibility, then the election change rules in Section 4.4(d) will apply.

2.7 Uniformed Service Under USERRA. A Participant who is absent from employment with the Employer on account of being in “uniformed service”, as that term is defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), may elect to continue participation in the Plan. The coverage period shall extend for the lesser of 24 months or until the Participant fails to apply for reinstatement or to return to employment with the Employer. The Participant shall be responsible for making the required contributions during the period during which he or she is in “uniformed service”. The manner in which such payments are made shall be determined by the Plan Administrator, in a manner similar to Section 2.5 (regarding the payment of contributions with respect to FMLA Leave). A Participant whose coverage under the group health insurance plan is terminated on account of his or her being in “uniformed service”, and is later reinstated, shall not be subject to a new exclusion or waiting period requirement imposed by such group health plan and/or medical savings account, provided that such requirements would not have been imposed if coverage had not been terminated as a result of the “uniformed service”.

2.8 Definition of Dependent. Any individual who is a tax dependent of the Participant as defined in Code § 152, with the following exceptions: (1) a dependent is defined as in Code § 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof; and (2) a dependent means any child (as defined in Code § 152(f)(1)) of the Participant who as of the end of the taxable year has not attained age 27, and (3) a dependent means any child to whom IRS Rev. Proc. 2008-48 applies (regarding a child of divorced parents, etc., where one or both parents have custody of the child for more than half of the calendar year and where the parents together provide more than half of the child's support for the calendar year), is treated as a dependent of both parents.

The definition of “Dependent” has been revised under Section 152 of the Code by the Working Families Tax Relief Act of 2005 (WFTRA). An individual is considered to be a dependent if he or she is a qualifying child or qualifying relative of the taxpayer.

The following qualifying criteria now apply to be a "dependent child":

- 1) The individual has a specific family type relationship to the taxpayer
- 2) The individual does not provide more than half of his or her own support
- 3) The individual has the same place of residence as the taxpayer for more than half of the year

4) The individual does not turn age 19 (24 if a full-time student)*, by the end of the Plan Year

In addition, the following qualifying criteria apply to be a "dependent relative":

- 1) The individual has a specific family type relationship to the taxpayer
- 2) The individual is not a qualifying child of any other taxpayer
- 3) The individual receives more than half of his or her support from the taxpayer
- 4) The individual's annual gross income is less than the Section 151 limit (this criteria does not apply to health plans)

In the case of an individual who is permanently and totally disabled (as defined in Code Section 22(e)(3)) at any time during such calendar year, the age requirement for a qualifying child does not apply.

No person shall be considered a Dependent of more than one Employee. If both an Employee and an Employee's spouse are employed by Employer dependent children may be covered by either spouse, but not by both.

*NOTE: the Internal Revenue Service (the "IRS") Notice 2010-38 (the "Notice") provides important guidance regarding the tax treatment of employer-provided health coverage to employees' adult children who have not attained age 27 as of the end of the employee's taxable year. Treasury regulations have been amended retroactively to March 30, 2010, to allow both the amounts paid by an employer for coverage for an employee's adult children and the amounts paid by (or reimbursed to) the employee for such coverage to be excluded from the employee's gross income, in the same manner as coverage that is provided to an employee's spouse or dependent defined under Section 152 of the Code. This coverage is provided to such adult child (as defined in Code § 152(f)(1)) regardless of whether the child satisfies the other requirements listed above. The Notice provides important guidance and further clarifications with regard to these issues.

Section 3

BENEFITS AND METHODS OF FUNDING

3.1 Benefits Offered. When first eligible or during the Open Enrollment Period as described under Section 2.2, Participants will be given the opportunity to elect Premium Payment Benefits, as described in Section 6. See Schedule A for a complete description of available benefits and refer to specific insurance premium rate sheets for individual maximum elective contribution.

3.2 Premium Payment Benefits. Upon proper election by a Participant in accordance with Section 3.3 herein, there shall be credited to each Participant's Premium Only Account any Premium Payment Benefits that correspond to the Participant's Salary Reduction Agreement determined in accordance with Section 3.3 hereof. Such Premium Payment Benefits shall not exceed the Premium Expense of the Medical Insurance Benefits elected, set forth in Schedule A attached hereto, as it may be revised by the Employer from time to time. The Participant's Premium Payment Benefits shall be credited as and when such sum is redirected from the Participant's compensation pursuant to the Salary Reduction Agreement then in effect. The Premium Payment Benefits shall be used to pay all or part of the Premium Expense of the Medical Insurance Benefits that the Participant has designated pursuant to Section 3.3. The Premium Expense paid on behalf of any Participant shall be a charge to the balance of his Premium Only Account. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

3.3 Election of Benefits. An Employee who first becomes eligible to participate in the Plan mid-year may elect to commence participation in one or more Benefits after eligibility requirements have been satisfied, provided that an Election Form/Salary Reduction Agreement is submitted to the Plan Administrator before the date in which participation will commence.

Each Eligible Employee shall submit to the Employer, before the close of the Enrollment Period for each Plan Year, or when Employee first becomes eligible, a Salary Reduction Form identifying the Medical Insurance Benefits to be provided by the Employer to or on behalf of the Eligible Employee. An Employee who does not elect benefits when first eligible may not enroll until the next Open Enrollment Period, unless an event occurs that would justify a mid-year election change, as described under Section 4.4.

Each election under this Section 3.3 may be modified by the Employer to the extent required to enable the Plan, and payments hereunder, to satisfy the requirements of Section 125 of the Code. If an Eligible Employee separates from service with a Participating Employer during a period in which

he is covered under Medical Insurance Benefits, the Employer may terminate the remaining portion of Medical Insurance Benefits coverage provided by the Plan. Any Participant or newly Eligible Employee who fails to execute an appropriate Salary Reduction Agreement during the Enrollment Period shall be deemed to have elected cash compensation (regular income) to the extent permissible.

3.4 Provision of Benefits. The Participating Employer shall provide the Medical Insurance Benefits the Participant has elected under the Plan. Eligibility for Premium Payment Benefits shall be subject to the additional requirements specified in the Medical Insurance Plan. The provisions of this Plan are not intended to override any exclusions, eligibility requirements, or waiting periods specified in the Medical Insurance Plan. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

3.5 Employer and Employee Contributions.

Employer Contributions. For Employees who elect Premium Payment Benefits, the Employer will contribute a portion of the Contributions (if applicable) as provided in the open enrollment materials furnished to Employees and/or on Election Form/Salary Reduction Agreement.

Employee Contributions. Employees who elect any of the Premium Payment Benefits, may pay for the cost of that coverage on a pre-tax Salary Reduction basis by completing an Election Form/Salary Reduction Agreement, or may pay with after-tax deductions.

If a Participant does not have sufficient Premium Payment Benefits to pay for the Medical Insurance Benefits elected, the Participating Employer is authorized to withhold the additional amounts from a Participant's pay on an after-tax basis to the extent required for said Medical Insurance Benefits.

Participants are required to increase or decrease their payments under the terms of the Plan and as required by the Plan Administrator, if there is an increase or decrease in the premium payments required by an independent, third party provider in order to maintain any Medical Insurance Benefits.

Notwithstanding the foregoing, Medical Insurance Benefits shall cease to be provided to a Participant if said Participant fails to make a contribution required under the terms of the Plan.

3.6 Nondiscrimination. Contributions and benefits under the Plan shall not discriminate in favor of Highly Compensated Employees; nor shall the aggregate cost of the Medical Insurance Benefits provided to Key Employees exceed 25% of the aggregate of such cost for the Medical Insurance Benefits provided to all Employees under the Plan. The Employer may limit or deny any Employee's Salary Reduction Agreement to the extent necessary to avoid any such discrimination.

3.7 Insurance Contracts. Any dividends or retroactive rates or other refunds which may

become payable under any Medical Insurance Benefits due to actuarial error in rate calculation shall be the exclusive property of and shall be retained by a Participating Employer.

3.8 Using Salary Reductions to Make Contributions. Salary Reductions are applied by the Employer to pay for the Participant's share of the Contributions for the Premium Payment Benefits and for the purposes of this Plan and the Code, are considered to be Employer contributions. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

If, as of the date that any elected coverage under this Plan terminates, a Participant's year-to-date Salary Reductions exceed or are less than the Participant's required Contributions for the coverage, then the Employer will, as applicable, either return the excess to the Participant as additional taxable wages or recoup the due Salary Reduction amounts from any remaining Compensation.

For those Participants who elect to pay their share of the Contributions for any of the Medical Insurance Benefits with after-tax deductions, both the Employee and Employer portions of such Contributions will be paid outside of this Plan.

3.9 Funding the Plan. All of the amounts payable under this Plan shall be paid from the general assets of the Employer, but Premium Payment Benefits are paid as provided in the applicable insurance policy. Nothing herein will be construed to require the Employer or the Plan Administrator to maintain any fund or to segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in any fund, account, or asset of the Employer from which any payment under this Plan may be made. There is no trust or other fund from which Benefits are paid. While the Employer has complete responsibility for the payment of Benefits out of its general assets (except for Premium Payment Benefits paid as provided in the applicable insurance policy), it may hire an unrelated third-party paying agent to make Benefit payments on its behalf.

Section 4

IRREVOCABILITY OF ELECTIONS AND EXCEPTIONS

4.1 Irrevocability of Elections. Except as described in this Article 4, a Participant's election under the Plan is irrevocable for the duration of the Period of Coverage to which it relates. In other words, unless an exception applies, the Participant may not change any elections for the duration of the Period of Coverage regarding:

- participation in this Plan;
- Salary Reduction amounts; or
- election of particular Benefit Package Options.

4.2 Procedure for Making New Elections if Exception to Irrevocability Applies.

- (a) *Timeframe for Making New Election.* A Participant (or an Eligible Employee who, when first eligible under Section 2.1 or during the Open Enrollment Period under Section 2.2, declined to be a Participant) may make a new election within 30 days of the occurrence of an event described in Section 4.4, as applicable, but only if the election under the new Election Form/Salary Reduction Agreement is made on account of and is consistent with the event and if the election is made within any specified time period (e.g., for Sections 4.4(d) through 4.4(i), within 30 days after the events described in such Sections, or within 60 days for loss of Medicaid or CHIP coverage or notice of eligibility for a Premium Assistance Subsidy). Notwithstanding the foregoing, a Change in Status (e.g., a divorce or a dependent's losing student status) that results in a beneficiary becoming ineligible for coverage under the Medical Insurance Plan shall automatically result in a corresponding election change, whether or not requested by the Participant within the normal 30-day period.
- (b) *Effective Date of New Election.* Elections made pursuant to this Section 4.2 shall be effective for the balance of the Period of Coverage following the change of election unless a subsequent event allows for a further election change. Except as provided in Section 4.4(e) for HIPAA special enrollment rights in the event of birth, adoption, or placement for adoption, all election changes shall be effective on a prospective basis only (i.e., election changes will become effective no earlier than the first day of the next calendar month following the date that the election change was filed, but, as determined by the Plan Administrator, election changes may become effective later to the extent that the coverage in the applicable Benefit Package Option commences later).

4.3 Change in Status Defined. A Participant may make a new election upon the occurrence of certain events as described in Section 4.4, including a Change in Status, for the applicable Module. “Change in Status” means any of the events described below, as well as any other events included under subsequent changes to Code § 125 or regulations issued thereunder, which the Plan Administrator, in its sole discretion and on a uniform and consistent basis, determines are permitted under IRS regulations and under this Plan:

- (a) *Legal Marital Status.* A change in a Participant’s legal marital status, including marriage, death of a Spouse, divorce, legal separation, or annulment;
- (b) *Number of Dependents.* Events that change a Participant’s number of Dependents, including birth, death, adoption, and placement for adoption;
- (c) *Employment Status.* Any of the following events that change the employment status of the Participant or his or her Spouse or Dependents: (1) a termination or commencement of employment; (2) a strike or lockout; (3) a commencement of or return from an unpaid leave of absence; (4) a change in worksite; and (5) if the eligibility conditions of this Plan or other employee benefits plan of the Participant or his or her Spouse or Dependents depend on the employment status of that individual and there is a change in that individual’s status with the consequence that the individual becomes (or ceases to be) eligible under this Plan or other employee benefits plan, such as if a plan only applies to salaried employees and an employee switches from salaried to hourly-paid, union to non-union, or full-time to part-time (or vice versa), with the consequence that the employee ceases to be eligible for the Plan;
- (d) *Dependent Eligibility Requirements.* An event that causes a Dependent to satisfy or cease to satisfy the Dependent eligibility requirements for a particular benefit, such as attaining a specified age, Student status, or any similar circumstance; and
- (e) *Change in Residence.* A change in the place of residence of the Participant or his or her Spouse or Dependents.

4.4 Events Permitting Exceptions to Irrevocability Rule for All Benefits. A Participant may change an election as described below upon the occurrence of the stated events for the applicable Module of this Plan:

- (a) *Open Enrollment Period* - A Participant may change an election during the Open Enrollment Period in accordance with Section 2.2.
- (b) *Termination of Employment* - A Participant’s election will terminate under the Plan upon termination of employment in accordance with Sections 2.3 and 2.4, as applicable.

- (c) *Leaves of Absence* - A Participant may change an election under the Plan upon FMLA leave in accordance with Section 2.5 and upon non-FMLA leave in accordance with Section 2.6.
- (d) *Change in Status* - A Participant may change his or her actual or deemed election under the Plan upon the occurrence of a Change in Status (as defined in Section 4.3), but only if such election change is made on account of and corresponds with a Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer (referred to as the general consistency requirement). A Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer includes a Change in Status that results in an increase or decrease in the number of an Employee's family members (i.e., a Spouse and/or Dependents) who may benefit from the coverage.

The Plan Administrator, in its sole discretion and on a uniform and consistent basis, shall determine, based on prevailing IRS guidance, whether a requested change is on account of and corresponds with a Change in Status. Assuming that the general consistency requirement is satisfied, a requested election change must also satisfy the following specific consistency requirements in order for a Participant to be able to alter his or her election based on the specified Change in Status:

- (1) *Loss of Spouse or Dependent Eligibility; Special COBRA Rules.* For a Change in Status involving a Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or a Dependent, or a Dependent's ceasing to satisfy the eligibility requirements for coverage, a Participant may only elect to cancel accident or health insurance coverage for (a) the Spouse involved in the divorce, annulment, or legal separation; (b) the deceased Spouse or Dependent; or (c) the Dependent that ceased to satisfy the eligibility requirements. Canceling coverage for any other individual under these circumstances would fail to correspond with that Change in Status. Notwithstanding the foregoing, if the Participant or his or her Spouse or Dependent becomes eligible for COBRA (or similar health plan continuation coverage under state law) under the Employer's plan (and the Participant remains a Participant under this Plan in accordance with Section 2.2), then the Participant may increase his or her election to pay for such coverage (this rule does not apply to a Participant's Spouse who becomes eligible for COBRA or similar coverage as a result of divorce, annulment, or legal separation).

IRS Notice 2010-38 states that the applicable Treasury Regulations have been amended retroactively to March 30, 2010, to include Change in Status events covering children under age 27 who do not otherwise qualify as dependent children, including becoming newly eligible for coverage or eligible for coverage beyond the date on which the child otherwise would have lost coverage.

(2) *Gain of Coverage Eligibility Under Another Employer's Plan.* For a Change in Status in which a Participant or his or her Spouse or Dependent gains eligibility for coverage under a cafeteria plan or qualified benefit plan of the employer of the Participant's Spouse or Dependent as a result of a change in marital status or a change in employment status, a Participant may elect to cease or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the Spouse's or Dependent's employer's plan. The Plan Administrator may rely on a Participant's certification that the Participant has obtained or will obtain coverage under the Spouse's or Dependent's employer's plan, unless the Plan Administrator has reason to believe that the Participant's certification is incorrect.

(e) *HIPAA Special Enrollment Rights* - If a Participant or his or her Spouse or Dependent is entitled to special enrollment rights under a group health plan, as required by HIPAA under Code § 9801(f), then a Participant may revoke a prior election for group health plan coverage and make a new election, provided that the election change corresponds with such HIPAA special enrollment right. As required by HIPAA, a special enrollment right will arise if:

- a Participant or his or her Spouse or Dependent declined to enroll in group health plan coverage because he or she had other coverage, and eligibility for such other coverage is subsequently lost due to legal separation, divorce, death, termination of employment, reduction in hours, or exhaustion of the maximum COBRA period, or the other coverage was non-COBRA coverage and employer contributions for such coverage were terminated; or
- a new Dependent is acquired as a result of marriage, birth, adoption, or placement for adoption. An election to add previously eligible Dependents as a result of the acquisition of a new Spouse or Dependent child shall be considered to be consistent with the special enrollment right. An election change on account of a HIPAA special enrollment attributable to the birth, adoption, or placement for adoption of a new Dependent child

- may, subject to the provisions of the underlying group health plan, be effective retroactively (up to 30 days).
- a Participant or their Dependent becomes eligible for a Premium Assistance Subsidy (60 day special enrollment period provided by CHIP Reauthorization Act effective April 1, 2009).
 - a Participant or their Dependent loses Medicaid or CHIP coverage (60 day special enrollment period provided by CHIP Reauthorization Act effective April 1, 2009).
- (f) *Certain Judgments, Decrees and Orders* - If a judgment, decree, or order (collectively, an “Order”) resulting from a divorce, legal separation, annulment, or change in legal custody (including a QMCSO) requires accident or health coverage for a Participant’s child (including a foster child who is a Dependent of the Participant), then a Participant may (1) change his or her election to provide coverage for the child (provided that the Order requires the Participant to provide coverage); or (2) change his or her election to revoke coverage for the child if the Order requires that another individual (including the Participant’s Spouse or former Spouse) provide coverage under that individual’s plan and such coverage is actually provided.
- (g) *Medicare and Medicaid* - If a Participant or his or her Spouse or Dependent who is enrolled in a health or accident plan under this Plan becomes entitled to (i.e., becomes enrolled in) Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), then the Participant may prospectively reduce or cancel the health or accident coverage of the person becoming entitled to Medicare or Medicaid, but coverage for the unaffected Participants may not be canceled or reduced. Furthermore, if a Participant or his or her Spouse or Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, then the Participant may prospectively elect to commence or increase the accident or health coverage of the individual who loses Medicare or Medicaid eligibility.
- (h) *Change in Cost* - For purposes of this Section 4.4(h), “similar coverage” means coverage for the same category of benefits for the same individuals (e.g., family to family or single to single). For example, two plans that provide major medical coverage are considered to be similar coverage. For purposes of this definition, (1) a health FSA is not similar coverage with respect to an accident or health plan that is not a health FSA; (2) an HMO and a PPO are considered to be similar coverage; and (3) coverage by another employer, such as a Spouse’s or

Dependent's employer, may be treated as similar coverage if it otherwise meets the requirements of similar coverage.

- (1) *Increase or Decrease for Insignificant Cost Changes.* Participants are required to increase their elective contributions (by increasing Salary Reductions) to reflect insignificant increases in their required contribution for their Benefit Package Option(s), and to decrease their elective contributions to reflect insignificant decreases in their required contribution. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will determine whether an increase or decrease is insignificant based upon all the surrounding facts and circumstances, including but not limited to the dollar amount or percentage of the cost change. The Plan Administrator, on a reasonable and consistent basis, will automatically effectuate this increase or decrease in affected employees' elective contributions on a prospective basis.
- (2) *Significant Cost Increases.* If the Plan Administrator determines that the cost charged to an Employee of a Participant's Benefit Package Option(s) (such as the PPO for the Medical Insurance Plan) significantly increases during a Period of Coverage, then the Participant may (a) make a corresponding prospective increase in his or her elective contributions (by increasing Salary Reductions); (b) revoke his or her election for that coverage, and in lieu thereof, receive on a prospective basis coverage under another Benefit Package Option that provides similar coverage (such as an HMO); or (c) drop coverage prospectively if there is no other Benefit Package Option available that provides similar coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost increase is significant in accordance with prevailing IRS guidance.
- (3) *Significant Cost Decreases.* If the Plan Administrator determines that the cost of any Benefit Package Option (such as the PPO for the Medical Insurance Plan) significantly decreases during a Period of Coverage, then the Plan Administrator may permit the following election changes: (a) Participants who are enrolled in a Benefit Package Option other than the Benefit Package Option that has decreased in cost may change their election on a prospective basis to elect the Benefit Package Option that has decreased in cost (such as the PPO for the Medical Insurance Plan); and (b) Employees who are otherwise eligible under Section 2.1 may elect the Benefit Package Option that has decreased in cost (such as the PPO) on a prospective basis, subject to the terms and limitations of the Benefit Package Option. The Plan Administrator, in its sole discretion and on a uniform and consistent

basis, will decide whether a cost decrease is significant in accordance with prevailing IRS guidance.

- (i) *Change in Coverage* - The definition of “similar coverage” under Section 4.4(h) applies also to this Section 4.4(i).

(1) *Significant Curtailment*. If coverage is “significantly curtailed” (as defined below), Participants may elect coverage under another Benefit Package Option that provides similar coverage. In addition, as set forth below, if the coverage curtailment results in a “Loss of Coverage” (as defined below), then Participants may drop coverage if no similar coverage is offered by the Employer. The Plan Administrator in its sole discretion, on a uniform and consistent basis, will decide, in accordance with prevailing IRS guidance, whether a curtailment is “significant,” and whether a Loss of Coverage has occurred.

(a) *Significant Curtailment Without Loss of Coverage*. If the Plan Administrator determines that a Participant’s coverage under a Benefit Package Option under this Plan (or the Participant’s Spouse’s or Dependent’s coverage under his or her employer’s plan) is significantly curtailed without a Loss of Coverage (for example, when there is a significant increase in the deductible, the co-pay, or the out-of-pocket cost-sharing limit under an accident or health plan, such as the PPO under the Medical Insurance Plan) during a Period of Coverage, the Participant may revoke his or her election for the affected coverage, and in lieu thereof, prospectively elect coverage under another Benefit Package Option that provides similar coverage (such as the HMO). Coverage under a plan is deemed to be “significantly curtailed” only if there is an overall reduction in coverage provided under the plan so as to constitute reduced coverage generally.

(b) *Significant Curtailment With a Loss of Coverage*. If the Plan Administrator determines that a Participant’s Benefit Package Option (such as the PPO under the Medical Insurance Plan) coverage under this Plan (or the Participant’s Spouse’s or Dependent’s coverage under his or her employer’s plan) is significantly curtailed, and if such curtailment results in a Loss of Coverage during a Period of Coverage, then the Participant may revoke his or her election for the affected coverage and may either prospectively elect coverage under another Benefit Package Option that provides similar coverage (such as the HMO) or drop coverage if no other Benefit Package Option providing similar coverage is offered by the Employer.

(c) *Definition of Loss of Coverage.* For purposes of this Section 4.4(i)(1), a “Loss of Coverage” means a complete loss of coverage (including the elimination of a Benefit Package Option, an HMO ceasing to be available where the Participant or his or her Spouse or Dependent resides, or a Participant or his or her Spouse or Dependent losing all coverage under the Benefit Package Option by reason of an overall lifetime or annual limitation). In addition, the Plan Administrator, in its sole discretion, on a uniform and consistent basis, may treat the following as a Loss of Coverage:

- a substantial decrease in the medical care providers available under the Benefit Package Option (such as a major hospital ceasing to be a member of a preferred provider network or a substantial decrease in the number of physicians participating in the PPO for the Medical Insurance Plan or in an HMO);
- a reduction in benefits for a specific type of medical condition or treatment with respect to which the Participant or his or her Spouse or Dependent is currently in a course of treatment; or
- any other similar fundamental loss of coverage.

(2) *Addition or Significant Improvement of a Benefit Package Option.* If during a Period of Coverage the Plan adds a new Benefit Package Option or significantly improves an existing Benefit Package Option, the Plan Administrator may permit the following election changes: (a) Participants who are enrolled in a Benefit Package Option other than the newly added or significantly improved Benefit Package Option may change their elections on a prospective basis to elect the newly added or significantly improved Benefit Package Option; and (b) Employees who are otherwise eligible under Section 2.1 may elect the newly added or significantly improved Benefit Package Option on a prospective basis, subject to the terms and limitations of the Benefit Package Option. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether there has been an addition of, or a significant improvement in, a Benefit Package Option in accordance with prevailing IRS guidance.

(3) *Loss of Coverage Under Other Group Health Coverage.* A Participant may prospectively change his or her election to add group health coverage for the Participant or his or her Spouse or Dependent, if such individual(s) loses coverage under any group health coverage sponsored by a governmental or educational institution, including (but not limited to) the following: a state children’s health insurance program (SCHIP) under Title XXI of the

Social Security Act; a medical care program of an Indian Tribal government (as defined in Code § 7701(a)(40)), the Indian Health Service, or a tribal organization; a state health benefits risk pool; or a foreign government group health plan, subject to the terms and limitations of the applicable Benefit Package Option(s). Beginning April 1, 2009, employees and dependents are permitted to enroll in the Employer's group health insurance plan within 60 days of the loss of Medicaid or CHIP coverage.

- (4) *Change in Coverage Under Another Employer Plan.* A Participant may make a prospective election change that is on account of and corresponds with a change made under an employer plan (including a plan of the Employer or a plan of the Spouse's or Dependent's employer), so long as (a) the other cafeteria plan or qualified benefits plan permits its participants to make an election change that would be permitted under applicable IRS regulations; or (b) the Plan permits Participants to make an election for a Period of Coverage that is different from the plan year under the other cafeteria plan or qualified benefits plan. For example, if an election is made by the Participant's Spouse during his or her employer's open enrollment to drop coverage, the Participant may add coverage to replace the dropped coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a requested change is on account of and corresponds with a change made under the other employer plan, in accordance with prevailing IRS guidance.

A Participant entitled to change an election as described in this Section 4.4 must do so in accordance with the procedures described in Section 4.2.

4.5 Election Modifications For HSA Benefits May Be Changed Prospectively at Any Time

As set forth in Section 7.1, an election to make a Contribution to an HSA can be increased, decreased or revoked at any time on a prospective basis. Such election changes shall be effective no later than the first day of the next calendar month following the date that the election change was filed. No Benefit Package Option election changes can occur as a result of a change in HSA election except as otherwise described in this Section 4. A Participant entitled to change an election as described in this Section 4.5 must do so in accordance with the procedures described in Section 4.2.

4.6 Election Modifications Required by Plan Administrator. The Plan Administrator may, at any time, require any Participant or class of Participants to amend the amount of their Salary Reductions for a Period of Coverage if the Plan Administrator determines that such action is necessary or advisable in order to (a) satisfy any of the Code's nondiscrimination requirements

applicable to this Plan or other cafeteria plan; (b) prevent any Employee or class of Employees from having to recognize more income for federal income tax purposes from the receipt of benefits hereunder than would otherwise be recognized; (c) maintain the qualified status of benefits received under this Plan; or (d) satisfy Code nondiscrimination requirements or other limitations applicable to the Employer's qualified plans. In the event that contributions need to be reduced for a class of Participants, the Plan Administrator will reduce the Salary Reduction amounts for each affected Participant, beginning with the Participant in the class who had elected the highest Salary Reduction amount and continuing with the Participant in the class who had elected the next-highest Salary Reduction amount, and so forth, until the defect is corrected.

Section 5

PLAN ADMINISTRATOR

5.1 Plan Administrator. The administration of this Plan shall be under the supervision of the Plan Administrator. It is the principal duty of the Plan Administrator to see that this Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in this Plan without discrimination among them.

5.2 Powers of the Plan Administrator. The Plan Administrator shall have such duties and powers as it considers necessary or appropriate to discharge its duties. It shall have the exclusive right to interpret the Plan and to decide all matters thereunder, and all determinations of the Plan Administrator with respect to any matter hereunder shall be conclusive and binding on all persons. Without limiting the generality of the foregoing, the Plan Administrator shall have the following discretionary authority:

- (a) to construe and interpret this Plan, including all possible ambiguities, inconsistencies, and omissions in the Plan and related documents, and to decide all questions of fact, questions relating to eligibility and participation, and questions of benefits under this Plan;
- (b) to prescribe procedures to be followed and the forms to be used by Employees and Participants to make elections pursuant to this Plan;
- (c) to prepare and distribute information explaining this Plan and the benefits under this Plan in such manner as the Plan Administrator determines to be appropriate;
- (d) to request and receive from all Employees and Participants such information as the Plan Administrator shall from time to time determine to be necessary for the proper administration of this Plan;
- (e) to furnish each Employee and Participant with such reports with respect to the administration of this Plan as the Plan Administrator determines to be reasonable and appropriate, including appropriate statements setting forth the amounts by which a Participant's Compensation has been reduced in order to provide benefits under this Plan;
- (f) to receive, review, and keep on file such reports and information regarding the benefits covered by this Plan as the Plan Administrator determines from time to time to be necessary and proper;
- (g) to appoint and employ such individuals or entities to assist in the administration of this Plan as it determines to be necessary or advisable, including legal counsel and benefit consultants;

- (h) to sign documents for the purposes of administering this Plan, or to designate an individual or individuals to sign documents for the purposes of administering this Plan;
- (i) to secure independent medical or other advice and require such evidence as it deems necessary to decide any claim or appeal; and
- (j) to maintain the books of accounts, records, and other data in the manner necessary for proper administration of this Plan and to meet any applicable disclosure and reporting requirements.

5.3 Reliance on Participant, Tables, etc. The Plan Administrator may rely upon the direction, information, or election of a Participant as being proper under the Plan and shall not be responsible for any act or failure to act because of a direction or lack of direction by a Participant. The Plan Administrator will also be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions, and reports that are furnished by accountants, attorneys, or other experts employed or engaged by the Plan Administrator.

5.4 Provision for Third-Party Plan Service Providers. The Plan Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection with the operation of the Plan. Unless otherwise provided in the service agreement, obligations under this Plan shall remain the obligation of the Employer.

5.5 Fiduciary Liability. To the extent permitted by law, the Plan Administrator shall not incur any liability for any acts or for failure to act except for their own willful misconduct or willful breach of this Plan.

5.6 Compensation of Plan Administrator. Unless otherwise determined by the Employer and permitted by law, any Plan Administrator that is also an Employee of the Employer shall serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of their duties shall be paid by the Employer.

5.7 Bonding. The Plan Administrator shall be bonded to the extent required by ERISA.

5.8 Insurance Contracts. The Employer shall have the right (a) to enter into a contract with one or more insurance companies for the purposes of providing any benefits under the Plan; and (b) to replace any of such insurance companies or contracts. Any dividends, retroactive rate adjustments, or other refunds of any type that may become payable under any such insurance contract shall not be assets of the Plan but shall be the property of and be retained by the Employer, to the extent that such amounts are less than aggregate Employer contributions toward such insurance.

5.9 Inability to Locate Payee. If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited following a reasonable time after the date any such payment first became due.

5.10 Effect of Mistake. In the event of a mistake as to the eligibility or participation of an Employee, the allocations made to the account of any Participant, or the amount of benefits paid or to be paid to a Participant or other person, the Plan Administrator shall, to the extent that it deems administratively possible and otherwise permissible under Code § 125 or the regulations issued thereunder, cause to be allocated or cause to be withheld or accelerated, or otherwise make adjustment of, such amounts as it will in its judgment accord to such Participant or other person the credits to the account or distributions to which he or she is properly entitled under the Plan. Such action by the Plan Administrator may include withholding of any amounts due to the Plan or the Employer from Compensation paid by the Employer.

Section 6

PREMIUM ONLY PLAN MODULE

6.1 Benefits. The only Medical Insurance Benefits that are offered under the Premium Payment Module are benefits under the Medical Insurance Plan providing major medical benefits and other ancillary benefits outlined in Schedule A. Notwithstanding any other provision in this Plan, the Medical Insurance Benefits outlined in Schedule A are subject to the terms and conditions of the Medical Insurance Plans, and no changes can be made with respect to such Medical Insurance Benefits under this Plan (such as mid-year changes in election) if such changes are not permitted under the applicable Insurance Plan. An Eligible Employee can (a) elect benefits under the Premium Payment Module by electing to pay for his or her share of the Contributions for Medical Insurance Benefits on a pre-tax Salary Reduction basis (Premium Payment Benefits); or (b) elect no benefits under the Premium Payment Module and to pay for his or her share of the Contributions, if any, for Medical Insurance Benefits with after-tax deductions outside of this Plan. Unless an exception applies (as described in Section 4), such election is irrevocable for the duration of the Period of Coverage to which it relates. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

6.2 Contributions for Cost of Coverage. The annual Contribution for a Participant's Premium Payment Benefits is equal to the amount as set by the Employer, which may or may not be the same amount charged by the insurance carrier.

6.3 Medical Insurance Benefits Provided Under the Medical Insurance Plan. Medical Insurance Benefits will be provided by the Medical Insurance Plan(s), not this Plan. The types and amounts of Medical Insurance Benefits, the requirements for participating in the Medical Insurance Plan, and the other terms and conditions of coverage and benefits of the Medical Insurance Plans are set forth in the Medical Insurance Plans. All claims to receive benefits under the Medical Insurance Plans shall be subject to and governed by the terms and conditions of the Medical Insurance Plan(s) and the rules, regulations, policies, and procedures adopted in accordance therewith, as may be amended from time to time.

6.4 Medical Insurance Benefits and COBRA. Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and his or her Spouse and Dependents, as applicable, whose coverage terminates under the Medical Insurance Benefits because of a COBRA qualifying event (and who is a qualified beneficiary as defined under COBRA), shall be given the opportunity to continue on a self-pay basis the same coverage that he or she had under the Medical

Insurance Plan the day before the qualifying event for the periods prescribed by COBRA. Such continuation coverage shall be subject to all conditions and limitations under COBRA. Contributions for COBRA coverage for Medical Insurance Benefits may be paid on a pre-tax basis for current Employees receiving taxable compensation (as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year) where COBRA coverage arises either (a) because the Employee ceases to be eligible because of a reduction in hours; or (b) because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage. For all other individuals (e.g., Employees who cease to be eligible because of retirement, termination of employment, or layoff), Contributions for COBRA coverage for Medical Insurance Benefits shall be paid on an after-tax basis (unless may be otherwise permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year).

Section 7

HEALTH SAVINGS ACCOUNT (HSA) MODULE

7.1 HSA Benefits. An Eligible Employee can elect to participate in the HSA Module by electing to pay the Contributions on a pre-tax Salary Reduction basis to the Employee's HSA established and maintained outside the Plan by a trustee/custodian to which the Employer can forward contributions to be deposited (this funding feature constitutes the HSA Benefits offered under this Plan). As described in Section 4, such election can be increased, decreased or revoked prospectively at any time during the Plan Year, effective no later than the first day of the next calendar month following the date that the election change was filed.

HSA Benefits cannot be elected with Health FSA Benefits unless the Limited (Vision/ Dental/ Preventive Care) Health FSA Option is selected.

7.2 Contributions for Cost of Coverage for HSA; Maximum Limits. The annual Contribution for a Participant's HSA Benefits is equal to the annual benefit amount elected by the Participant (for example, if the maximum \$7,300 annual benefit amount is elected, then the annual contribution amount is also \$7,300). In no event shall the amount elected exceed the statutory maximum amount for HSA contributions applicable to the Participant's High Deductible Health Plan coverage option (i.e., single or family) for the calendar year in which the contribution is made. Effective January 1, 2024, the maximum HSA contribution amounts are \$4,150 for single coverage and \$8,300 for family coverage, indexed annually.

An additional catch-up Contribution (\$1,000 each year) may be made for Participants who are age 55 or older. In addition, the maximum annual Contribution shall be reduced by any matching (or other) Employer Contribution made on the Participant's behalf other than pre-tax Salary Reductions made under the Plan.

7.3 Recording Contributions for HSA. As described in Section 7.5, the HSA is not an employer-sponsored employee benefit plan - it is an individual trust or custodial account separately established and maintained by a trustee/custodian outside the Plan. Consequently, the HSA trustee/custodian, not the Employer, will establish and maintain the HSA. The HSA trustee/custodian will be chosen by the Participant, not by the Employer. The Employer may, however, limit the number of HSA providers to whom it will forward contributions that the Employee makes via pre-tax Salary Reductions - such a list is not an endorsement of any particular HSA provider. The Plan Administrator will maintain records to keep track of HSA Contributions an Employee makes via pre-

tax Salary Reductions, but it will not create a separate fund or otherwise segregate assets for this purpose. The Employer has no authority or control over the funds deposited in a HSA.

7.4 Tax Treatment of HSA Contributions and Distributions. The tax treatment of the HSA (including contributions and distributions) is governed by Code § 223.

7.5 Trust/Custodial Agreement; HSA Not Intended to Be an ERISA Plan. HSA Benefits under this Plan consist solely of the ability to make Contributions to the HSA on a pre-tax Salary Reduction basis. Terms and conditions of coverage and benefits will be provided by and are set forth in the HSA, not this Plan. The terms and conditions of each Participant's HSA trust or custodial account are described in the HSA trust or custodial agreement provided by the applicable trustee/custodian to each electing Participant and are not a part of this Plan.

The HSA is not an employer-sponsored employee benefits plan. It is a savings account that is established and maintained by an HSA trustee/custodian outside this Plan to be used primarily for reimbursement of "qualified eligible medical expenses" as set forth in Code § 223(d)(2). The Employer has no authority or control over the funds deposited in a HSA. Even though this Plan may allow pre-tax Salary Reduction contributions to an HSA, the HSA is not intended to be an ERISA benefit plan sponsored or maintained by the Employer.

Section 8

MISCELLANEOUS

8.1 Amendment and Termination. The Employer may amend or terminate this Plan at any time. The Employer may amend this Plan retroactively to enable the Plan to qualify as a cafeteria plan under section 125 of the Code. No amendment shall deprive any Participant or Beneficiary of any benefit to which he or she is entitled under this Plan with respect to contributions previously made; and no amendment shall provide for the use of funds or assets other than for the benefit of Employees and their Beneficiaries, except as may be specifically authorized by statute or regulation.

8.2 Effect of Plan on Employment. The Plan shall not be deemed to constitute a contract of employment between the Participating Employer and any Participant or to be consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Participating Employer or to interfere with the right of the Participating Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge will have upon him or her as a Participant of this Plan.

8.3 Alienation of Benefits. No benefit under this Plan may be voluntarily or involuntarily assigned or alienated, except as provided pursuant to a Qualified Medical Child Support Order pursuant to Section 609 of ERISA and Section 8.4 hereof.

8.4 Facility of Payment. If the Employer deems any person incapable of receiving benefits to which he is entitled by reason of not having reached the age of majority, illness, infirmity, or other incapacity, it may direct that payment be made directly for the benefit of such person or to any person selected by a Participating Employer to disburse it, whose receipt shall be a complete acquittance therefore. Such payments shall, to the extent thereof, discharge all liability of the Participating Employer.

8.5 Proof of Claim. As a condition of receiving benefits under the Plan, any person may be required to submit whatever proof the Plan Administrator may require either directly to the Plan Administrator or to any person delegated by him/her.

8.6 Status of Benefits. The Employer believes that this Plan is in compliance with section 125 of the Code and that it provides certain benefits to Employees which are tax free pursuant to other provisions of the Code. This Plan has not been submitted to the Internal Revenue Service for approval and thus there can be and is no assurance that intended tax benefits will be available. Any Participant, by accepting benefits under this Plan, agrees to be liable for any tax

that may be imposed with respect to those benefits, plus any interest as may be imposed.

8.7 Applicable Law. The Plan shall be construed and enforced according to the laws of the State of California to the extent not preempted by any federal law.

8.8 Source of Benefits. The Participating Employer and any insurance company contracts purchased or held by a Participating Employer shall be the sole sources of benefits under the Plan. No Employee or Beneficiary shall have any right to, or interest in, any assets of the Participating Employer upon termination of employment or otherwise, except as provided from time to time under the Plan, and then only to the extent of the benefits payable under the Plan to such Employee or Beneficiary.

8.9 No Reversion to Employer. At no time shall any part of Plan assets be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries, or for defraying reasonable expenses of administering the Plan.

8.10 Severability. If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision, and this Plan shall be construed and enforced as if such provision had not been included.

8.11 Heirs and Assigns. This Plan shall be binding upon the heirs, executors, administrators, successors and assigns of all parties, including each Participant and Beneficiary.

8.12 Headings and Captions. The headings and captions set forth in the Plan are provided for convenience only, shall not be considered part of the Plan, and shall not be employed in construction of the Plan.

8.13 Information to be Furnished. Participants shall provide the Employer and/or Participating Employer with such information and shall complete and sign such forms and documents, as may reasonably be requested from time to time for the Purpose of administration of the Plan.

Amended Document Effective January 1, 2024

EL TORO WATER DISTRICT

By: _____
Dennis P. Caffery

Witness: _____

EL TORO WATER DISTRICT

Schedule A

MEDICAL CARE COVERAGE OPTIONS UNDER THE PLAN*:

NAME OF COVERAGE

Group Health Insurance
HSA High Deductible Group Health Insurance
HSA Tax-Free Savings Account
Dental Insurance
Vision Insurance
Cancer Insurance
Accident Insurance
Hospital Indemnity Insurance
Critical Illness Insurance

*The Employee contributions necessary to obtain the coverage options set forth in this Schedule A above will be communicated by the Employer to Eligible Employees at the time of Enrollment and in Schedule B. The required Employee contribution amounts will be considered as the maximum elective Employee contributions necessary for participation in each Plan option above. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

EL TORO WATER DISTRICT

Schedule B

FORMULA FOR EMPLOYEE CONTRIBUTIONS UNDER THE PLAN

The following description of the Employee Contribution per Participant may be expressed as a percentage of monthly cost, or as a flat monthly dollar amount. If the formula for Employee contributions varies by class of Employees, the Employer Sponsor assumes full responsibility for its Employer contribution design.*

| Name of Benefit Plans To Be Offered | | Employee Only | Employee & Child(ren) | Employee & Spouse | Employee & Family |
|--|----|------------------|--------------------------|----------------------|----------------------|
| | ER | \$/% | \$/% | \$/% | \$/% |
| | EE | \$/% | \$/% | \$/% | \$/% |
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| | ER | \$/% | \$/% | \$/% | \$/% |
| | EE | \$/% | \$/% | \$/% | \$/% |

*An asterisk in the premium column means there are multiple rates based on age, sex, or other demographics. Please refer to specific insurance carrier premium rate sheets for individual maximum elective contribution.

In no event shall the existence of any Employer contributions for monthly premium costs, as indicated above, be construed to require the Employer to pay or otherwise be liable for any deductible, coinsurance, co-payment or other cost-sharing amounts related to the applicable medical care coverage option elected by the Participant.

ER = Employer Contribution

EE = Employee Contribution

EL TORO WATER DISTRICT

Schedule C

PARTICIPATING AFFILIATED EMPLOYERS

(Companies under common ownership)

The following organizations and entities shall be Participating Employers under the Plan:

Name of Participating Employer

None

SECTION 3

SUMMARY PLAN DESCRIPTION (SPD)

PLACE ALL PAGES OF THE SUMMARY PLAN DESCRIPTION AFTER TAB 3

COMPLETE SCHEDULES A, B AND C AND DISTRIBUTE TO ALL EMPLOYEES

EL TORO WATER DISTRICT

PREMIUM ONLY PLAN

SUMMARY PLAN DESCRIPTION

Effective August 1, 1995; Amended January 1, 2024

TABLE OF CONTENTS

Plan Purpose

Who is Eligible

When you May Participate

How to Enroll

Election Changes

Health Savings Account (HSA) Module

FMLA Leave of Absence

Non-FMLA Leave of Absence

About Social Security Taxes

About Income Taxes

Future of the Premium Only Account

Insurance Contracts

COBRA Continuation Coverage

Revised Definition of "Dependent" by WFTRA

ERISA Rights Statement

Administrative Facts

- Plan Sponsor and Administrator

- Plan Identification Numbers

- Service of Legal Process

- Classification and Funding

- Not a Contract of Employment

As used in this Summary Plan Description (SPD), “Your” means an active Employee as described under “Who is Eligible.”

PLAN PURPOSE

The purpose of the El Toro Water District Premium Only Plan (“Plan”) is to allow you to purchase coverage for health care with pretax dollars through a special type of spending account.

The advantage of this special spending account is that you pay no federal taxes on the contributions you make. This means a higher take-home pay for you than if you purchased health coverage with after-tax dollars.

The following pages explain how the Plan works.

WHO IS ELIGIBLE

If you are an Employee regularly scheduled to work 30 or more hours per week for El Toro Water District (“Employer”), or any affiliate of the Employer which adopts the Plan (“Participating Employer”), then you are eligible to participate in the Plan.

Your spouse or dependent(s) can only receive benefits through the Plan if they are named on your qualifying policy. Your spouse or dependent(s) can not participate in the Plan independently.

Self-employed individuals are not eligible to participate in the Plan, however C Corporation owners who are also Employees can participate.

WHEN YOU MAY PARTICIPATE

You are eligible to participate on the first day of the month following your completion of 30 consecutive days of active employment as an Eligible Employee.

HOW TO ENROLL

To enroll in the Plan, you must complete an election form; thereafter, in order to participate, you must re-enroll during the calendar month period preceding each Plan Year. If you are a newly Eligible Employee and fail to complete an election form then you will be deemed to have elected cash compensation to the extent permissible (this means you have agreed to accept your pay after taxes have been taken out to pay for qualifying benefits). If you are already a Plan participant and you fail to complete an election form for the upcoming Plan Year, only if your Employer permits an “evergreen election” will you be able to maintain the medical and dental benefit options, if any, that you elected for the prior year.

For the purposes of this Plan, “Plan Year” means the twelve-month period commencing January 1 and ending on the subsequent December 31. Keep in mind that your choices are in effect for the

entire Plan Year. Generally, you cannot change the elections you have made after the beginning of the Plan Year. However, there are certain limited situations when you can change your elections, see "Election Changes" in this Summary. If for any reason you become unable to make the required contributions for the Plan, your benefits will cease at that time. You will not be able to resume pretax payment of premiums until the new Plan Year.

ELECTION CHANGES

You usually cannot change your election to participate in the Salary Reduction Plan or vary the salary reduction amounts that you have selected during the Plan Year (known as the irrevocability rule). Of course, you can change your elections for benefits and salary reductions during the Open Enrollment Period, but that will apply only for the upcoming Plan Year. During the Plan Year, however, there are several important exceptions to the irrevocability rule, known as "Change in Election Events." Participants can change their elections under the Salary Reduction Plan during a Plan Year if an event occurs that is a Change in Election Event and certain other conditions are met, as described below. For details, see the various Change in Election Events headings below for the specific type of Changes in Election Event: Leaves of absence, including FMLA leave; Changes in Status; Certain Judgments, Decrees, and Orders; Medicare and Medicaid; Changes in Cost; and Changes in Coverage. In addition, the Plan Administrator can change certain elections on its own initiative. Note also that no changes can be made with respect to Medical Insurance Benefits if they are not permitted under the Medical Insurance Plan.

If any Change in Election Event occurs, you must inform the Plan Administrator and complete a new Election Form/Salary Reduction Agreement within 30 days after the occurrence. A special HIPAA enrollment period of no more than 60 days is provided as of April 1, 2009 for Employees and their Dependents for loss of Medicaid or CHIPRA coverage; or upon becoming eligible for a Premium Assistance Subsidy. If the change involves a loss of your Spouse's or Dependent's eligibility for Medical Insurance Benefits, then the change will be deemed effective as of the date that eligibility is lost due to the occurrence of the Change in Election Event, even if you do not request it within 30 days.

1. Leaves of Absence. You may change an election under the Salary Reduction Plan upon FMLA and non-FMLA leave.

2. Change in Status. If one or more of the following Changes in Status occur, you may revoke your old election and make a new election, provided that both the revocation and new election are on

account of and correspond with the Change in Status. Those occurrences that qualify as a Change in Status include the events described below, as well as any other events that the Plan Administrator, in its sole discretion and on a uniform and consistent basis, determines are permitted under IRS regulations:

- a change in your legal marital status (such as marriage, death of a Spouse, divorce, legal separation, or annulment). “Spouse” means the person who is legally married to you and is treated as a spouse under the Internal Revenue Code (“the Code”);
- a change in the number of your Dependents (such as the birth of a child, adoption or placement for adoption of a Dependent, or death of a Dependent). “Dependent” means your tax dependent under the Code;
- any of the following events that change the employment status of you, your Spouse, or your Dependent and that affects benefits eligibility under a cafeteria plan (including this Salary Reduction Plan) or other employee benefit plan of you, your Spouse, or your Dependents. Such events include any of the following changes in employment status: termination or commencement of employment; a strike or lockout; a commencement of or return from an unpaid leave of absence; a change in worksite; switching from salaried to hourly-paid; union to non-union; or full-time to part-time (or vice versa); incurring a reduction or increase in hours of employment; or any other similar change that makes the individual become (or cease to be) eligible for a particular employee benefit;
- an event that causes your Dependent to satisfy or cease to satisfy an eligibility requirement for a particular benefit (such as attaining a specific age, ceasing to be a student, or a similar circumstance).
- a change in your, your Spouse’s or your Dependent’s place of residence.

3. Change in Status—Other Requirements. If you wish to change your election based on a Change in Status, you must establish that the revocation is on account of and corresponds with the Change in Status. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, shall determine whether a requested change is on account of and corresponds with a Change in Status. As a general rule, a desired election change will be found to be consistent with a Change in Status event if the event affects coverage.

In addition, you must satisfy the following specific requirements in order to alter your election based on that Change in Status:

- *Loss of Spouse or Dependent Eligibility; Special COBRA Rules.* For accident and health

benefits a special rule governs which type of election changes are consistent with the Change in Status. For a Change in Status involving your divorce, annulment, or legal separation from your Spouse, the death of your Spouse or your Dependent, or your Dependent's ceasing to satisfy the eligibility requirements for coverage, you may elect only to cancel the accident or health benefits for the affected Spouse or Dependent. A change in election for any individual other than your Spouse involved in the divorce, annulment, or legal separation, your deceased Spouse or Dependent, or your Dependent that ceased to satisfy the eligibility requirements would fail to correspond with that Change in Status.

However, if you, your Spouse, or your Dependent elects COBRA continuation coverage under the Employer's plan because you ceased to be eligible because of a reduction of hours or because your Dependent ceases to satisfy eligibility requirements for coverage, and if you remain a Participant under the terms of this Salary Reduction Plan, then you may in certain circumstances be able to increase your contributions to pay for such coverage.

- *Gain of Coverage Eligibility Under Another Employer's Plan.* For a Change in Status in which you, your Spouse, or your Dependent gains eligibility for coverage under another employer's cafeteria plan (or qualified benefit plan) as a result of a change in your marital status or a change in your, your Spouse's, or your Dependent's employment status, your election to cease or decrease coverage for that individual under the Salary Reduction Plan would correspond with that Change in Status only if coverage for that individual becomes effective or is increased under the other employer's plan.

IRS Notice 2010-38 states that the applicable Treasury Regulations have been amended as of March 30, 2010, to include Change in Status events covering children under age 27 who do not otherwise qualify as dependent children, including becoming newly eligible for coverage or eligible for coverage beyond the date on which the child otherwise would have lost coverage.

4. Special Enrollment Rights. In certain circumstances, enrollment for Medical Insurance Benefits may occur outside the Open Enrollment Period, as explained in materials provided to you separately describing the Medical Insurance Benefits. (The Employer's Special Enrollment Notice also contains important information about the special enrollment rights that you may have, a copy of which was previously furnished to you. Contact the Human Resources Manager if you need another copy.) When a special enrollment right explained in those separate documents applies to your Medical Insurance Benefits, you may change your election under the Salary Reduction Plan to correspond with the special enrollment right.

5. Certain Judgments, Decrees, and Orders. If a judgment, decree, or order from a divorce, separation, annulment or custody change requires your child (including a foster child who is your Dependent) to be covered under the Medical Insurance Benefits, you may change your election to provide coverage for the child. If the order requires that another individual (such as your former Spouse) cover the child, then you may change your election to revoke coverage for the child if such coverage is, in fact, provided for the child.

6. Medicare or Medicaid. If you, your Spouse, or your Dependent becomes entitled to (i.e., becomes enrolled in) Medicare or Medicaid, then you may reduce or cancel that person's accident or health coverage under the Medical Insurance Plan. Similarly, if you, your Spouse, or your Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, then you may elect to commence or increase that person's accident or health. Effective April 1, 2009 you are provided a 60 day special enrollment period by the CHIP Reauthorization Act for you or your Dependent's loss of health coverage under Medicaid or CHIP.

7. Eligibility for Premium Assistance Subsidy. Effective April 1, 2009 you are provided a 60 day special enrollment period by the CHIP Reauthorization Act if you become eligible for a Premium Assistance Subsidy.

8. Change in Cost. If the cost charged to you for your Medical Insurance Benefits significantly increases during the Plan Year, then you may choose to do any of the following: (a) make a corresponding increase in your contributions; (b) revoke your election and receive coverage under another benefits package option (if any) that provides similar coverage, or elect similar coverage under the plan of your Spouse's employer; or (c) drop your coverage, but only if no other benefits package option provides similar coverage.

For insignificant increases or decreases in the cost of benefits, however, the Plan Administrator will automatically adjust your election contributions to reflect the minor change in cost. The Plan Administrator generally will notify you of increases in the cost of Medical Insurance benefits.

9. Change in Coverage. You may also change your election if one of the following events occurs:

- *Significant Curtailment of Coverage.* If your Medical Insurance Benefits coverage is significantly curtailed without a loss of coverage (for example, when there is an increase in the deductible under the Medical Insurance Benefits), then you may revoke your election for that coverage and elect coverage under another benefits package option that provides similar coverage. (Coverage under a plan is significantly curtailed only if there is an overall reduction

of coverage under the plan generally—loss of one particular physician in a network does not constitute significant curtailment.) If your Medical Insurance Benefits coverage is significantly curtailed with a loss of coverage (for example, if you lose all coverage under the option by reason of an overall lifetime or annual limitation), then you may either revoke your election and elect coverage under another benefits package option that provides similar coverage, elect similar coverage under the plan of your Spouse's employer, or drop coverage but only if there is no option available under the plan that provides similar coverage. (The Plan Administrator generally will notify you of significant curtailments in Medical Insurance Benefits coverage)

- *Addition or Significant Improvement of Salary Reduction Plan Option.* If the Salary Reduction Plan adds a new option or significantly improves an existing option, then the Plan Administrator may permit Participants who are enrolled in an option other than the new or improved option to elect the new or improved option. Also, the Plan Administrator may permit eligible Employees to elect the new or improved option on a prospective basis, subject to limitations imposed by the applicable option.
- *Loss of Other Group Health Coverage.* You may change your election to add group health coverage for you, your Spouse, or your Dependent, if any of you loses coverage under any group health coverage sponsored by a governmental or educational institution (for example, a state children's health insurance program or certain Indian tribal programs).
- *Change in Election Under Another Employer Plan.* You may make an election change that is on account of and corresponds with a change made under another employer plan (including a plan of the Employer or a plan of your Spouse's or Dependent's employer), so long as (a) the other cafeteria plan or qualified benefits plan permits its participants to make an election change permitted under the IRS regulations; or (b) the Salary Reduction Plan permits you to make an election for a period of coverage (for example, the Plan Year) that is different from the period of coverage under the other cafeteria plan or qualified benefits plan.
For example, if an election to drop coverage is made by your Spouse during his or her employer's open enrollment, you may add coverage under the Salary Reduction Plan to replace the dropped coverage.

10. Modifications Required by the Plan Administrator. The Plan Administrator may modify your election(s) downward during the Plan Year if you are a key employee or highly compensated individual (as defined by the Code), if necessary to prevent the Salary Reduction Plan from becoming

discriminatory within the meaning of the federal income tax law. Additionally, if a mistake is made as to your eligibility or participation, the allocations made to your account, or the amount of benefits to be paid to you or another person, then the Plan Administrator shall, to the extent that it deems administratively possible and otherwise permissible under the Code and other applicable law, allocate, withhold, accelerate, or otherwise adjust such amounts as will in its judgment accord the credits to the account or distributions to which you or such other person is properly entitled under the Salary Reduction Plan. Such action by the Plan Administrator may include withholding of any amounts due from your compensation.

HEALTH SAVINGS ACCOUNT (HSA) MODULE

An Eligible Employee can elect to participate in the HSA Module by electing to pay the HSA Contributions on a pre-tax Salary Reduction basis to the HSA established and maintained outside the Plan by a trustee/custodian to which the Employer can forward contributions to be deposited (this funding feature constitutes the HSA Benefits offered under this Plan). Such election can be increased, decreased or revoked prospectively at any time during the Plan Year, effective no later than the first day of the next calendar month following the date that the election change was filed.

The annual Contribution for your HSA Benefits is equal to the annual benefit amount elected by you (for example, if the maximum \$7,300 annual benefit amount is elected, then the annual contribution amount is also \$7,300). In no event shall the amount elected exceed the statutory maximum amount for HSA contributions applicable to the Participant's High Deductible Health Plan coverage option (i.e., single or family) for the calendar year in which the contribution is made. Effective January 1, 2024, the maximum HSA contribution amounts are \$4,150 for single coverage and \$8,300 for family coverage, indexed annually.

An additional catch-up Contribution (\$1,000 each year) may be made for Employees who are age 55 or older. In addition, the maximum annual Contribution shall be reduced by any matching (or other) Employer Contribution made on the Participant's behalf other than pre-tax Salary Reductions made under the Plan.

The HSA is not an employer-sponsored employee benefit plan - it is an individual trust or custodial account separately established and maintained by a trustee/custodian outside the Plan. Consequently, the HSA trustee/custodian, not the Employer, will establish and maintain the HSA. The HSA trustee/custodian will be chosen by the Employee, not by the Employer. The Employer may, however, limit the number of HSA providers to whom it will forward contributions that the

Employee makes via pre-tax Salary Reductions - such a list is not an endorsement of any particular HSA provider. The Plan Administrator will maintain records to keep track of HSA Contributions an Employee makes via pre-tax Salary Reductions, but it will not create a separate fund or otherwise segregate assets for this purpose. The Employer has no authority or control over the funds deposited in a HSA.

The tax treatment of the HSA (including contributions and distributions) is governed by Code § 223.

HSA Benefits under this Plan consist solely of the ability to make Contributions to the HSA on a pre-tax Salary Reduction basis. Terms and conditions of coverage and benefits will be provided by and are set forth in the HSA, not this Plan. The terms and conditions of each Participant's HSA trust or custodial account are described in the HSA trust or custodial agreement provided by the applicable trustee/custodian to each electing Participant and are not a part of this Plan.

The HSA is not an employer-sponsored employee benefits plan. It is a savings account that is established and maintained by an HSA trustee/custodian outside this Plan to be used primarily for reimbursement of "qualified eligible medical expenses" as set forth in Code § 223(d)(2). The Employer has no authority or control over the funds deposited in a HSA. Even though this Plan may allow pre-tax Salary Reduction contributions to an HSA, the HSA is not intended to be an ERISA benefit plan sponsored or maintained by the Employer.

An election to make a Contribution to your HSA can be increased, decreased or revoked at any time during the year on a prospective basis. Such election changes shall be effective no later than the first day of the next calendar month following the date that the election change was filed. No Benefit Package Option election changes can occur as a result of a change in HSA election. See your Plan Administrator for more details.

FMLA LEAVES OF ABSENCE *(Applicable to groups of 50+ employees)*

If you go on a qualifying leave under the Family and Medical Leave Act of 1993 (FMLA), then to the extent required by the FMLA your Employer will continue to maintain your Medical Insurance Benefits on the same terms and conditions as if you were still active (that is, your Employer will continue to pay its share of the contributions to the extent that you opt to continue coverage). Your Employer may require you to continue all Medical Insurance Benefits coverage while you are on paid leave (so long as Participants on non-FMLA paid leave are required to continue coverage). If so, you will pay your share of the contributions by the method normally used during any paid leave (for

example, on a pre-tax salary-reduction basis). If you are going on unpaid FMLA leave (or paid FMLA leave where coverage is not required to be continued) and you opt to continue your Medical Insurance Benefits, then you may pay your share of the contributions in one of three ways: (a) with after-tax dollars while on leave; (b) with pretax dollars to the extent that you receive compensation during the leave, or by pre-paying all or a portion of your share of the contributions for the expected duration of the leave on a pre-tax salary reduction basis out of your pre-leave compensation, including unused sick days and vacation days (to pre-pay in advance, you must make a special election before such compensation normally would be available to you (but note that prepayments with pre-tax dollars may not be used to pay for coverage during the next Plan Year); or (c) by other arrangements agreed upon by you and the Plan Administrator (for example, the Plan Administrator may pay for coverage during the leave and withhold amounts from your compensation upon your return from leave).

If your Employer requires all Participants to continue Medical Insurance Benefits during the unpaid FMLA leave, then you may discontinue paying your share of the required contributions until you return from leave. Upon returning from leave, you must pay your share of any required contributions that you did not pay during the leave. Payment for your share will be withheld from your compensation either on a pre-tax or after-tax basis, depending on what you and the Plan Administrator agree to. If your Medical Insurance Benefits coverage ceases while you are on FMLA leave (e.g., for non-payment of required contributions), you will be permitted to re-enter such Benefits, as applicable, upon return from such leave on the same basis as when you were participating in the Plan before the leave or as otherwise required by the FMLA. You may be required to have coverage for such Benefits reinstated so long as coverage for Employees on non-FMLA leave is required to be reinstated upon return from leave. If that policy permits you to discontinue contributions while on leave, then upon returning from leave you will be required to repay the contributions not paid by you during leave. Payment will be withheld from your compensation either on a pre-tax or after-tax basis, as agreed to by the Plan Administrator and you or as the Plan Administrator otherwise deems appropriate.

NON-FMLA LEAVES OF ABSENCE

If you go on an unpaid leave of absence that does not affect eligibility, then you will continue to participate and the contribution due from you (if not otherwise paid by your regular salary reductions) will be paid by pre-payment before going on leave, with after-tax contributions while on leave, or with catch-up contributions after the leave ends, as determined by the Plan Administrator. If you go on an unpaid leave that does affect eligibility, then the Change in Status rules will apply.

ABOUT SOCIAL SECURITY TAXES

Social Security taxes are not deducted from the amount you pay in premiums on a pretax basis. This could result in a small reduction in the Social Security benefit you receive at retirement. This is because Social Security benefits are based on what you earned while you were working, up to the Taxable Wage Base (TWB). If your salary is above the TWB, your Social Security benefit is not likely to be affected. If you are below the TWB, the benefit would be reduced.

The tax advantages you gain through this Plan may offset any possible reduction in Social Security benefits.

ABOUT INCOME TAXES

If you cover dependent children under medical plan(s) sponsored by El Toro Water District and your family's adjusted income is \$41,646 or less, you may be eligible to receive the Supplemental Earned Income Credit for Health Insurance Premiums (based on the tax code as of January 1, 2008). However, the amount of your contributions for health coverage, which are paid on a pretax basis, would reduce the amount of this tax credit. You should, therefore, review whether it is more advantageous for you to take the full tax credit or to elect to have your medical and dental contributions paid on a pretax basis.

FUTURE OF THE PREMIUM ONLY ACCOUNT

The Plan is based on the Employer's understanding of the current provisions of the Internal Revenue Code. The Employer reserves the right to amend or discontinue the Plan if regulations or changes in the tax law make it advisable to do so. If the Plan is amended or terminated, it will not affect any benefit to which you were entitled before the date of the amendment or termination. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

INSURANCE CONTRACTS

Any moneys refunded to the Employer or a participating Employer, due to actuarial error in the rate calculation, will be the property of and retained by the Employer or the Participating Employer. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

COBRA CONTINUATION COVERAGE

If you terminate employment, under Federal law, you, your spouse, and/or your covered dependents lose coverage under this Plan. You, your spouse, and/or your covered dependents may be entitled to continuation of health care coverage. The Administrator will inform you of these rights if you lose coverage for any reason other than divorce, legal separation or a covered dependent ceasing to be a dependent. Generally, if we (and any related companies) employed twenty (20) or more employees "on a typical business day" in the preceding calendar year, health plan continuation must be made available for a period not to exceed eighteen (18) months if a loss of benefits occurs because of your termination of employment or reduction of hours, or for a period not to exceed three (3) years for any of the other reasons given in (b) and (c) below. Under certain circumstances, persons who are disabled at the time of termination of employment or reduction in hours and/or within the first 60 days of COBRA coverage may be eligible for continuation of coverage for a total of 29 months (rather than 18). You should check with the Administrator for more details regarding this extended coverage. However, in certain circumstances, this continuation coverage may be terminated for reasons such as failure to pay continuation coverage cost, coverage under another employer's plan (whether as an employee or otherwise, provided the other employer's health plan does not contain any exclusion or limitation with respect to any pre-existing condition of the beneficiary unless the pre-existing condition limit does not apply to, or is satisfied by, the qualified beneficiary by reason of the group health plan portability, access and renewability requirements of the Health Insurance Portability and Accountability Act, ERISA or the Public Health Services Act), termination of our health plan, a "for cause" termination of coverage for reasons such as fraud, or you (or the person entitled to continued coverage) become enrolled in Medicare. However, if you become enrolled in Medicare, your covered dependents may still qualify for continuation coverage. The cost of continuation coverage must be paid by the individual choosing such coverage; however, the cost may not exceed 102% of the cost of the same coverage for a "similarly situated" employee or family member. When the continuation coverage for a disabled person is extended from 18 months to 29

months, the disabled person may be charged 150% (rather than 102%) of the cost of the coverage after expiration of the initial 18-month period.

(a) If you would otherwise lose your health plan coverage under this Plan because of a termination of employment or a reduction in hours, you may continue the health plan coverage provided under this Plan. However, this will not be a tax-deductible expense to you, absent unusual circumstances.

(b) Your spouse may choose continuation coverage for himself or herself if he or she loses group health coverage for any of the following reasons: (1) your death; (2) your divorce or legal separation; or (3) you become enrolled in Medicare.

(c) Your dependent children, including a child born to or placed for adoption with the Participant during the period of COBRA coverage, may choose continuation coverage for themselves if they lose group health coverage for any of the following reasons: (1) death of a parent; (2) your divorce or legal separation; (3) you become enrolled in Medicare; or (4) your dependent ceases to be a dependent child under the Plan.

It is your responsibility to notify the Plan Administrator of a divorce, legal separation or other change in marital status, change in a spouse's address, or a child losing dependent status under the plan, within sixty (60) days of the event. It is our responsibility to notify the Plan Administrator of your death, termination of employment or reduction in hours, the Employer's bankruptcy, or Medicare eligibility.

“*Medicare*” means the Health Insurance For the Aged and Disabled Act, Title XVIII of Public Law 89-97, Social Security, as amended.

REVISED DEFINITION OF "DEPENDENT" BY WFTRA

An individual is considered a “Dependent” under Section 152 of the Code and the Working Families Tax Relief Act of 2005 if he or she is a qualifying child or qualifying relative of the taxpayer.

The following four criteria must be met to be a qualifying child:

- 1) The individual has a specific family type relationship to the taxpayer
- 2) The individual does not provide more than half of his or her own support
- 3) The individual has the same place of residence as the taxpayer for more than half of the year
- 4) The individual does not turn age 19 (24 if a full-time student)*, by the end of the Plan Year

In addition the following four criteria must be met to be a qualifying relative:

- 1) The individual has a specific family type relationship to the taxpayer
- 2) The individual is not a qualifying child of any other taxpayer
- 3) The individual receives more than half of his or her support from the taxpayer
- 4) The individual's annual gross income is less than the Section 151 limit (this criteria does not apply to health plans)

In the case of an individual who is permanently and totally disabled (as defined in Code Section 22(e)(3)) at any time during such calendar year, the age requirement for a qualifying child does not apply.

No person shall be considered a Dependent of more than one Employee. If both an Employee and an Employee's spouse are employed by Employer dependent children may be covered by either spouse, but not by both.

*NOTE: the Internal Revenue Service (the "IRS") Notice 2010-38 (the "Notice") provides important guidance regarding the tax treatment of employer-provided health coverage to employees' adult children who have not attained age 27 as of the end of the employee's taxable year. Treasury regulations have been amended as of March 30, 2010, to allow both the amounts paid by an employer for coverage for an employee's adult children and the amounts paid by (or reimbursed to) the employee for such coverage to be excluded from the employee's gross income, in the same manner as coverage that is provided to an employee's spouse or dependent defined under Section 152 of the Code. The **Notice** provides important guidance and further clarifications with regard to these issues.

ERISA RIGHTS STATEMENT

The Employee Retirement Income Security Act of 1974 ("ERISA") was enacted to help assure that all employer-sponsored group Medical Insurance Benefits conform to standards set by Congress. An employee who is a Participant in the Plan is entitled to certain rights and protections under ERISA which provides that all Participants will be entitled to (1) examine, without charge, at the Plan Administrator's office and at other appropriate locations, all Plan documents and copies of documents filed with the U.S. Department of Labor, if any, such as detailed annual reports and Plan descriptions; (2) obtain copies of all Plan documents and other Plan information upon written request to the Plan Administrator, subject to a reasonable charge for the copies; and (3) receive a summary of the Plan's annual financial report, if any. The Plan Administrator is required by law to furnish each Participant with a copy of this Summary Annual Report (*generally only applicable to Health FSA plans and employer sponsored self-funded health and welfare benefit plans with more than 100*

participants that are required to file a Form 5500 annual report). Plan records are kept on a Plan Year basis.

In addition to creating rights for plan participants, ERISA imposes duties upon those responsible for the operation of a plan who are called “fiduciaries” and who have a duty to operate the Plan prudently and in the interest of Participants and Beneficiaries. If a claim for a benefit under the Plan is denied in whole or in part, the claimant must receive a written explanation of the reason for the denial. The claimant has the right to have the claim reviewed and reconsidered.

Within 180 days of receipt of a notice denying a claim you or your duly authorized representative may request in writing a full and fair review of the claim by the Plan Administrator, or by an appeals committee appointed by the Employer for that purpose (“Committee”). The Plan Administrator may extend the 180-day period where the nature of the benefit involved or other attendant circumstances make such extension appropriate.

Under ERISA, there are steps an Employee covered under a plan can take to enforce the above rights. For instance, if the person requests materials and does not receive them within 30 days, the person may file suit in a federal court. In such a case, the court may require the company to provide the materials and pay the person up to \$110 a day until the person receives the materials, unless the materials were not sent because of reasons beyond the company’s control.

If a person has a claim for benefits which is denied or ignored, in whole or in part, the person may file suit in a state or federal court. If it should happen that plan fiduciaries misuse the Plan’s money, or if an Employee covered under this Plan is discriminated against for asserting his or her rights, the person may seek assistance from the U.S. Department of Labor, or may file suit in a federal court. The court will decide who should pay court costs and legal fees. If the claimant loses, the court may order the claimant to pay these costs and fees, for example, if it finds the claim to be frivolous.

If an Employee covered under the Plan has any questions about the Plan, the Employee should contact the Manager of Personnel. If an Employee has any questions about this statement of the Employee’s rights under ERISA, the Employee should contact the nearest Area office of the U.S. Labor-Management Services Administration, Department of Labor.

Special Note: This is a Summary Plan Description only. Your specific rights to benefits under the Plan are governed solely, and in every respect by your Employer's Premium Only Plan document, a copy of which is available from the company upon your request (see Statement of ERISA Rights). If there is any discrepancy between the description of the Plan as contained in this material and the official Plan document, the language of the Plan document shall govern.

ADMINISTRATIVE FACTS

Plan Sponsor and Administrator

The Plan is sponsored by El Toro Water District, 24251 Los Alisos Blvd., Lake Forest, CA 92630. El Toro Water District also acts as Plan Administrator. The Plan Administrator manages the overall operations of the Plan and decides all questions that come to it on a fair and equitable basis for participants and their Beneficiaries. The Plan Administrator has appointed the person in charge of benefits of El Toro Water District located at El Toro Water District, 24251 Los Alisos Blvd., Lake Forest, CA 92630, to be responsible for the day-to-day operation of the Plan.

Plan Identification Numbers

The Employer Identification Number (“EIN”) assigned to Employer by the Internal Revenue Service (“IRS”) is 95-2377973. The Plan Number (“PN”) assigned to the Premium Only Plan by the Company is 501. You should refer to these numbers in any correspondence about the Plan.

Service of Legal Process

El Toro Water District has designated the Plan Administrator as its agent for service of legal process in connection with claims under the Plan. Such process may be served on the Company by directing the process to the Plan Administrator at the El Toro Water District address.

Classification and Funding

This Plan is classified as a Code section 125 welfare benefits plan by the Department of Labor and is funded by Employer and Employee contributions.

Not a Contract of Employment

No provision of the Plan is to be considered a contract of employment between you and the Employer. The Employer’s rights with regard to disciplinary action and termination of any Employee, if necessary, are in no manner changed by any provision of the Plan.

EL TORO WATER DISTRICT

Schedule A

MEDICAL CARE COVERAGE OPTIONS UNDER THE PLAN*:

NAME OF COVERAGE

Group Health Insurance
HSA High Deductible Group Health Insurance
HSA Tax-Free Savings Account
Dental Insurance
Vision Insurance
Cancer Insurance
Accident Insurance
Hospital Indemnity Insurance
Critical Illness Insurance

*The Employee contributions necessary to obtain the coverage options set forth in this Schedule A above will be communicated by the Employer to Eligible Employees at the time of Enrollment and in Schedule B. The required Employee contribution amounts will be considered as the maximum elective Employee contributions necessary for participation in each Plan option above. It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy.

EL TORO WATER DISTRICT

Schedule B

FORMULA FOR EMPLOYEE CONTRIBUTIONS UNDER THE PLAN

The following description of the Employee Contribution per Participant may be expressed as a percentage of monthly cost, or as a flat monthly dollar amount. If the formula for Employee contributions varies by class of Employees, the Employer Sponsor assumes full responsibility for its Employer contribution design.*

| Name of Benefit Plans To Be Offered | | Employee Only | Employee & Child(ren) | Employee & Spouse | Employee & Family |
|--|----|------------------|--------------------------|----------------------|----------------------|
| | ER | \$/% | \$/% | \$/% | \$/% |
| | EE | \$/% | \$/% | \$/% | \$/% |
| | ER | \$/% | \$/% | \$/% | \$/% |
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| | ER | \$/% | \$/% | \$/% | \$/% |
| | EE | \$/% | \$/% | \$/% | \$/% |
| | ER | \$/% | \$/% | \$/% | \$/% |
| | EE | \$/% | \$/% | \$/% | \$/% |
| | ER | \$/% | \$/% | \$/% | \$/% |
| | EE | \$/% | \$/% | \$/% | \$/% |

*An asterisk in the premium column means there are multiple rates based on age, sex, or other demographics. Please refer to specific insurance carrier premium rate sheets for individual maximum elective contribution.

In no event shall the existence of any Employer contributions for monthly premium costs, as indicated above, be construed to require the Employer to pay or otherwise be liable for any deductible, coinsurance, co-payment or other cost-sharing amounts related to the applicable medical care coverage option elected by the Participant.

ER = Employer Contribution

EE = Employee Contribution

EL TORO WATER DISTRICT

Schedule C

PARTICIPATING AFFILIATED EMPLOYERS

(Companies under common ownership)

The following organizations and entities shall be Participating Employers under the Plan:

Name of Participating Employer

None

SECTION 4

FORMS

PLACE ALL PAGES OF THE FORMS AFTER TAB 4

DISTRIBUTE TO ALL EMPLOYEES WITH THE SUMMARY PLAN DESCRIPTION

**El Toro Water District
Premium Election Form**

- ☐ Correction
- ☐ Change of personal information
- ☐ Change of Family Status
- ☐ Transfer
Effective Date _____
- ☐ Termination
- ☐ Waive Participation _____ (initial)

Personal Information

| | | | | |
|---|------------|----------------|------------------------|-----|
| Last Name | First Name | Middle Initial | Social Security Number | |
| Home Address | Street | City | State | Zip |
| Date of Birth: / / Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female Marital Status: <input type="checkbox"/> Single <input type="checkbox"/> Married Date of Hire: / / | | | | |

Benefit Elections (Circle coverage elected and enter appropriate amount on total cost per month line.)
(Employee Cost Per Month*)

| Name of Benefit Plans To Be Offered | Employee Only | Employee & Child(ren) | Employee & Spouse | Employee & Family |
|--|------------------|--------------------------|----------------------|----------------------|
| _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |

* Amount after employer contribution is deducted

Total Cost Per Month \$ _____

Salary Reduction Agreement

I have read and understand the explanation I have received regarding my options under the El Toro Water District Premium Only Plan. I understand I have the right to have the company redirect my salary on a pretax basis during the plan year and apply this amount toward the purchase of the medical coverage I have designated above. I understand that my share of the cost of this coverage may be adjusted from time to time to reflect the change in rates charged by the carriers. I acknowledge that my election is irrevocable unless there is a change in my status. A change in status includes: marriage; divorce; death of a spouse or dependent; birth of a dependent; birth or adoption of a child; change in number of dependents; termination of employment or commencement of employment; a strike or lockout; commencement or return from an unpaid leave of absence; a change in worksite; or any change in employment status that affects eligibility; a change in residence for me, my spouse or children; or my dependent either satisfies or ceases to satisfy requirements for coverage due to change in age, student status, or any similar circumstances; or a change in my or my spouse's employment status.

It is specifically the Participant's responsibility regarding insurance premium reimbursement not to request anything that could violate the terms of their insurance policy. I understand that Exchange subsidized insurance premiums can only be deducted on a post-tax basis.

I hereby apply for the options listed above. If necessary, I authorize El Toro Water District to adjust my pay as required by my elections. I understand that the benefit options I have elected will remain in force from January 1 until December 31, unless my family status changes.

Employee Signature

Date

Company Representative

Date

**EL TORO WATER DISTRICT
HEALTH SAVINGS ACCOUNT
ENROLLMENT ELECTION FORM**

Applicant Name: _____

Email Address: _____

Contribution Information:

Employee Contributions:

- Annual Contributions: \$ _____
- Pay Period/Month Contribution: \$ _____
- Number of pay periods annually: _____

Total Annual Contributions: \$ _____

Total Pay period Contribution: \$ _____

Employer Contributions:

- Annual Contributions: \$ _____
- Pay Period/Month Contribution: \$ _____
- Number of pay periods annually: _____

Total Annual Contributions: \$ _____

Total Pay period Contribution: \$ _____

(Note: Effective January 1, 2024, the maximum HSA contribution amounts are \$4,150 for single coverage and \$8,300 for family coverage, indexed annually.)

Signatures: (Please read before signing)

I understand the eligibility requirements for the HSA which I am establishing, and I state that I do qualify to make deposits. I understand the terms and conditions which apply to this HSA, and I agree to be bound by those conditions.

I assume complete responsibility for: (1) Determining that I am eligible for the HSA each year I make contributions, (2) ensuring that all contributions I make are within the limits set forth by the tax laws, and (3) ensuring that all contributions from the HSA are for qualified medical expenses as defined by Section 213(d) of the tax code.

I authorize my employer to deduct my contributions each pay period and send them to: _____

_____ for placement in my Health Savings Account.

I understand that I may close my HSA account with prior written notification. All remaining funds will be forwarded to me within 30 days of the written notification being received. I understand that any monies not rolled to a new HSA Plan, or spent on Qualified Medical Expenses will be subject to additional taxes and penalties through the IRS.

HSA Holder Signature

Date

Employer Signature

Date

Employer must sign if he/she is contributing to the employee HSA account

Administrator
El Toro Water District
24251 Los Alisos Blvd.
Lake Forest, CA 92630

**EL TORO WATER DISTRICT
PREMIUM ONLY PLAN
CHANGE AND REVOCATION FORM**

(Please Print)

PERSONAL DATA

PLAN YEAR _____

Soc. Sec. # _____

Name _____

Home Phone # _____

Address _____
(Street) (Apt. #) (City) (State) (Zip)

CHANGE OR REVOCATION OF SALARY REDUCTION AGREEMENT

Please indicate the change in your Salary Reduction Agreement in the area below. If there is a status change event, change in cost/coverage or other-type change (judgment decrees, etc.) that is permitted under the Internal Revenue Code and Regulations, and which justifies a change in your Salary Reduction Agreement, you may change or revoke your Salary Reduction Agreement. However, once you make the change indicated on this form, you may not reinstate or revise your Salary Reduction Agreement as of a date before the first day of the next Plan Year unless there is another status change event, change in cost/coverage or other-type allowable change (judgments, decrees, etc.). Please Note: In most circumstances, you must submit the Change and Revocation Form within **30 days** of qualifying event.

Premium-type Benefits

If you are changing from one level of coverage, from single to family coverage for example, mark "Revoke" for your current coverage (e.g. single) and mark "New Enrollment" for the new coverage (e.g. family).

If you are ending participation in the Plan, mark "Revoke".

| | <u>Current Election</u> | <u>Revoke/ Suspend</u> | <u>New Enrollment</u> | <u>Effective Date</u> |
|-------------------------------|--------------------------------|-------------------------------|------------------------------|------------------------------|
| ** Health Insurance ** | | | | |
| [] Employee Only | | [] | [] | ___/___/___ |
| [] Employee Plus Dependents | | [] | [] | ___/___/___ |
| ** Dental ** | | | | |
| [] Employee Only | | [] | [] | ___/___/___ |
| [] Employee Plus Dependents | | [] | [] | ___/___/___ |
| ** _____ ** | | | | |
| [] Employee Only | | [] | [] | ___/___/___ |
| [] Employee Plus Dependents | | [] | [] | ___/___/___ |

Flexible Spending Arrangements

If you are reducing or increasing your salary reductions, please indicate the new amount PER PAY PERIOD under "New Enrollment". If you are ending participation in the Plan, mark "Revoke".

| | <u>Current Election</u> | <u>Revoke/ Suspend</u> | <u>New Enrollment Salary Reduction</u> | <u>Effective Date</u> |
|-------------------------|--------------------------------|-------------------------------|---|------------------------------|
| [] Medical Expense FSA | | [] | _____ | ___/___/___ |

Reason for Election Change – please mark [X] the appropriate election change event(s) that justifies the change(s) or revocation(s) on this form and enter the date(s) of the event(s)

1. Status Change Events

a. Change in Marital Status

| | | | |
|------------------|-------------|-------------------------|-------------|
| [] Marriage on | ___/___/___ | [] Legal Separation on | ___/___/___ |
| [] Divorce on | ___/___/___ | [] Death of Spouse on | ___/___/___ |
| [] Annulment on | ___/___/___ | | |

b. Change in Number of Tax Dependents

| | | | |
|-----------------------------------|-------------|---------------------------|-------------|
| [] Birth on | ___/___/___ | [] Death of Dependent on | ___/___/___ |
| [] Adoption on | ___/___/___ | [] Death of Spouse on | ___/___/___ |
| [] Other – Gain Tax Dependent on | ___/___/___ | | |

Reason for Election Change (continued)

c. Change in Employment Status With Gain or Loss of Eligibility -

Change relates to: ☐ Employee ☐ Spouse or Dependent

| | | | |
|--|----------------|--|----------------|
| <input type="checkbox"/> Termination of Employment on | ____/____/____ | <input type="checkbox"/> Full-time to Part-time on | ____/____/____ |
| <input type="checkbox"/> Commencement of Employment on | ____/____/____ | <input type="checkbox"/> Part-time to Full-time on | ____/____/____ |
| <input type="checkbox"/> Commencement of Unpaid Leave on | ____/____/____ | <input type="checkbox"/> Return from Unpaid Leave on | ____/____/____ |
| <input type="checkbox"/> Other (hourly to salary, union to non union, change in worksite, etc.) on | ____/____/____ | | |

Provide Details: _____

d. Change in Dependent Eligibility Under an Employer's Plan

☐ Lost Eligibility (age, student status, attainment of age 13 for Dependent Care FSA, COBRA event, etc.) on ____/____/____

☐ Gain Eligibility (e.g., age, student status, etc.) on ____/____/____

e. Change of Residence Affecting Eligibility –

Change relates to: ☐ Employee ☐ Spouse or Dependent Date of change ____/____/____

2. Special Enrollment Rights – HIPAA (applies to Premium benefits only)

☐ Loss of other group health plan coverage on ____/____/____

☐ Acquired new spouse or dependent (marriage, birth, etc.) on ____/____/____

☐ Eligible for Premium Assistance Subsidy on ____/____/____

3. Certain Judgments, Decrees and Orders (applies to Premium and Health FSA benefits only)

☐ Court order requiring coverage for Dependent on ____/____/____

4. Medicare or Medicaid (applies to Premium and Health FSA benefits only)

☐ Became eligible for Medicare or Medicaid on ____/____/____

☐ Became ineligible for Medicare or Medicaid on ____/____/____

5. Change in Cost (applies to Premium)

☐ Significant cost increase in coverage on ____/____/____

☐ Significant cost decrease in coverage on ____/____/____

6. Change in Coverage (applies to Premium)

☐ Change in dependent care provider on ____/____/____

☐ Significant curtailment of coverage on ____/____/____

☐ Addition or significant improvement of a plan option on ____/____/____

☐ Loss of group health coverage under plan of a governmental or educational institution on ____/____/____

☐ Change in coverage under an employer's plan on ____/____/____

Signature

I have examined this authorization to modify my Salary Reduction Agreement and to the best of my knowledge, it is true, correct and complete. I understand that the election change I have requested must be on account of and consistent with the status change or other election change event (s) I have checked above. I understand that the status and participation changes must comply with the Plan and that the Plan Administrator has the sole discretion in making this determination. I further understand that I may be required to provide documentation regarding the change(s) I have checked above.

Participant's Signature

Date

Sec 132 and Sec 125 FSAs must indicate the LAST PAY DATE affected (may differ from actual Termination Date): ____/____/____

Denied by _____ on _____

Reason for Denial _____

Action to be taken _____

Plan Administrator:

Agreed and accepted by the Employer's Representative

Date

SECTION 5

ADMINISTRATION GUIDE &

NON-DISCRIMINATION TESTING

PLACE ALL PAGES AFTER TAB 5

RETAIN TO REFERENCE NEW REGULATIONS AS NEEDED

Employee Benefits--Cafeteria Plans; Proposed Rule

REG-142695-05 – August 6, 2007

Department of the Treasury
Internal Revenue Service
26 CFR Part 1
REG-142695-05

Employee Benefits--Cafeteria Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of prior notices of proposed rulemaking, notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains new proposed regulations providing guidance on cafeteria plans. This document also withdraws the notices of proposed rulemaking relating to cafeteria plans under section 125 that were published on May 7, 1984, December 31, 1984, March 7, 1989, November 7, 1997 and March 23, 2000. In general, these proposed regulations would affect employers that sponsor a cafeteria plan, employees that participate in a cafeteria plan, and third party cafeteria plan administrators.

Explanation of Provisions

Overview

The new proposed regulations are organized as follows: general rules on qualified and nonqualified benefits in cafeteria plans (new proposed Sec. 1.125-1), general rules on elections (new proposed Sec. 1.125-2), general rules on flexible spending arrangements (new proposed Sec. 1.125-5), general rules on substantiation of expenses for qualified benefits (new proposed Sec. 1.125-6) and nondiscrimination rules (new proposed Sec. 1.125-7). The new proposed regulations, new Proposed Sec. Sec. 1.125-1, 1.125-2, 1.125-5, 1.125-6 and Sec. 1.125-7, consolidate and restate Proposed Sec. 1.125-1 (1984, 1997, 2000), Sec. 1.125-2 (1989, 1997, 2000) and Sec. 1.125-2T (1986). Unless otherwise indicated, references to “new proposed regulations” or “these proposed regulations” mean the proposed section 125 regulations being published in this document.

The new proposed regulations reflect changes in tax law since the prior regulations were proposed, including: the change in the definition of dependent (section 152) and the addition of the following as qualified benefits: adoption assistance (section 137), additional deferred compensation benefits described in section 125(d)(1)(B), (C) and (D), Health Savings Accounts (HSAs) (sections 223, 125(d)(2)(D) and 4980G), and qualified HSA distributions from health FSAs (section 106(e)). Other changes include the prohibition against long-term care insurance and long-term care services (section 125(f)) and the addition of the key employee concentration test in section 125(b)(2).

The prior proposed regulations, Sec. Sec. 1.125-1 and 1.125-2, provide the basic framework and requirements for cafeteria plans and elections under cafeteria plans. The prior proposed regulations also outlined the most significant rules for benefits under a health flexible spending arrangement (health FSA) offered by a cafeteria plan--the requirement that the maximum reimbursement be available at all times during the coverage period (the uniform coverage rule), the requirement of a 12-month period of coverage, the requirement that the health FSA only reimburse medical expenses, the requirement that all medical expenses be substantiated by a third party before reimbursement, the requirement that expenses be incurred during the period of coverage, and the prohibition against deferral of compensation (including the use-or-lose rule). The prior proposed regulations also provided guidelines for dependent care FSAs, and the application of section 125 to paid vacation days offered under a cafeteria plan. These remain substantially unchanged in the new proposed regulations, with certain clarifications. Finally, the prior proposed regulations included a number of Q & As addressing transitional issues relating to the enactment of section 125, as well as the application of the now-repealed section 89 (special nondiscrimination rules with respect to certain employee benefit plans). These provisions are omitted from the new proposed regulations.

I. New Proposed Sec. 1.125-1--Qualified and Nonqualified Benefits in Cafeteria Plans Section 125 Exclusive Noninclusion Rule

Section 125 provides that, except in the case of certain discriminatory benefits, no amount shall be included in the gross income of a participant in a cafeteria plan (as defined in section 125(d)) solely because, under the plan, the participant may choose among the benefits of the plan. The new proposed regulations clarify and amplify the general rule in the prior proposed regulations that section 125 is the exclusive means by which an employer can offer employees a choice between taxable and nontaxable benefits without the choice itself resulting in inclusion in gross income by the

employees. When employees may elect between taxable and nontaxable benefits, this election results in gross income to employees, unless a specific Internal Revenue Code (Code) section (such as section 125) intervenes to prevent gross income inclusion. Thus, except for an election made through a cafeteria plan that satisfies section 125 or another specific Code section (such as section 132(f)(4)), any opportunity to elect among taxable and nontaxable benefits results in inclusion of the taxable benefit regardless of what benefit is elected and when the election is made. This interpretation of section 125 is consistent with the legislative history of section 125. The legislative history begins with the interim ERISA rules for cafeteria plans:

Under * * * ERISA, an employer contribution made before January 1, 1977, to a cafeteria plan in existence on June 27, 1974, is required to be included in an employees' gross income only to the extent that the employee actually elects taxable benefits. In the case of a plan not in existence on June 27, 1974, the employer contribution is required to be included in an employee's gross income to the extent the employee could have elected taxable benefits. S. Rep. No. 1263, 95th Cong., 2d Sess. 74 (1978), reprinted in 1978 U.S.C.C.A.N. 6837; H. R. Rep. No. 1445, 95th Cong., 2d Sess. 63 (1978); H.R. Conf. Rep. No. 1800, 95th Cong., 2d Sess. 206 (1978).

The legislative history also provides:

Generally, employer contributions under a written cafeteria plan which permits employees to elect between taxable and nontaxable benefits are excluded from the gross income of an employee to the extent that nontaxable benefits are elected. S. Rep. No. 1263, 95th Cong., 2d Sess. 75 (1978), reprinted in 1978 U.S.C.C.A.N. 6838; H. R. Rep. No. 1445, 95th Cong., 2d Sess. 63 (1978). See also H.R. Conf. Rep. No. 1800, 95th Cong., 2d Sess. 206 (1978).

The legislative history to the 1984 amendments to section 125 continues:

The cafeteria plan rules of the Code provide that a participant in a nondiscriminatory cafeteria plan will not be treated as having received a taxable benefit offered under the plan solely because the participant has the opportunity, before the benefit becomes available, to choose among the taxable and nontaxable benefits under the plan. H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 1173 (1984), reprinted in 1984 U.S.C.C.A.N. 1861. See also H.R. Conf. Rep. No. 736, 104th Cong., 2d Sess. 295, reprinted in 1996 U.S.C.C.A.N. 2108.

The new proposed regulations provide that unless a plan satisfies the requirements of section 125 and the regulations, the plan is not a cafeteria plan. Reasons that a plan would fail to satisfy the section 125 requirements include: Offering nonqualified benefits; not offering an election between at least one permitted taxable benefit and at least one qualified benefit; deferring compensation; failing to comply with the uniform coverage rule or use-or-lose rule; allowing employees to revoke elections or make new elections during a plan year, except as provided in Sec. 1.125-4; failing to comply with substantiation requirements; paying or reimbursing expenses incurred for qualified benefits before the effective date of the cafeteria plan or before a period of coverage; allocating experience gains (forfeitures) other than as expressly allowed in the new proposed regulations; and failing to comply with grace period rules.

Definition of a Cafeteria Plan

The new proposed regulations provide that a cafeteria plan is a separate written plan that complies with the requirements of section 125 and the regulations, that is maintained by an employer for employees and that is operated in compliance with the requirements of section 125 and the regulations. Participants in a cafeteria plan must be permitted to choose among at least one permitted taxable benefit (for example, cash, including salary reduction) and at least one qualified benefit. A plan offering only elections among nontaxable benefits is not a cafeteria plan. Also, a plan offering only elections among taxable benefits is not a cafeteria plan. See Rev. Rul. 2002-27, Situation 2 (2002-1 CB 925), see Sec. 601.601(d)(2)(ii)(b). Finally, a cafeteria plan must not provide for deferral of compensation, except as specifically permitted in section 125(d)(2)(B), (C), or (D).

Written Plan

Section 125(d)(1) requires that a cafeteria plan be in writing. The cafeteria plan must be operated in accordance with the written plan terms. The new proposed regulations require that the written plan specifically describe all benefits, set forth the rules for eligibility to participate and the procedure for making elections, provide that all elections are irrevocable (except to the extent that the plan includes the optional change in status rules in Sec. 1.125-4), and state how employer contributions may be made under the plan (for example, salary reduction or nonelective employer contributions), the maximum amount of elective contributions, and the plan year. If the plan includes a flexible spending arrangement (FSA), the written plan must include provisions complying with the uniform coverage rule and the use-or-lose rule. Because

section 125(d)(1)(A) states that a cafeteria plan is a written plan under which “all participants are employees”, the new proposed regulations require that the written cafeteria plan specify that only employees may participate in the cafeteria plan. The new proposed regulations also require that all provisions of the written plan apply uniformly to all participants.

Individuals Who May Participate in a Cafeteria Plan

All participants in a cafeteria plan must be employees. See section 125(d)(1)(A). These proposed regulations provide that employees include common law employees, leased employees described in section 414(n), and full-time life insurance salesmen (as defined in section 7701(a)(20)). These proposed regulations further provide that former employees (including laid-off employees and retired employees) may participate in a plan, but a plan may not be maintained predominantly for former employees. See Rev. Rul. 82-196 (1982-2 CB 53); Rev. Rul. 85-121 (1985-2 CB 57), see Sec. 601.601(d)(2)(ii)(b). All employees who are treated as employed by a single employer under section 414(b), (c) or (m) are treated as employed by a single employer for purposes of section 125. See section 125(g)(4). A participant’s spouse or dependents may receive benefits through a cafeteria plan although they cannot participate in the cafeteria plan. Self-employed individuals are not treated as employees for purposes of section 125. Accordingly, the new proposed regulations make clear that sole proprietors, partners, and directors of corporations are not employees and may not participate in a cafeteria plan. In addition, the new proposed regulations clarify that 2-percent shareholders of an S corporation are not employees for purposes of section 125. The new proposed regulations provide rules for dual status individuals and individuals moving between employee and non-employee status. A self-employed individual may, however, sponsor a cafeteria plan for his or her employees.

Election Between Taxable and Nontaxable Benefits

The new proposed regulations require that a cafeteria plan offer employees an election among only permitted taxable benefits (including cash) and qualified nontaxable benefits. See section 125(d)(1)(B). For purposes of section 125, cash means cash from current compensation (including salary reduction), payment for annual leave, sick leave, or other paid time off, severance pay, property, and certain after-tax employee contributions. Distributions from qualified retirement plans are not cash or taxable benefits for purposes of section 125. See Rev. Rul. 2003-62 (2003-1 CB 1034) (distributions to former employees from a qualified employees’ trust, applied to pay health insurance premiums, are includible in former employees’ gross income under section 402), see Sec. 601.601(d)(2)(ii)(b).

Qualified Benefits

In general, in order for a benefit to be a qualified benefit for purposes of section 125, the benefit must be excludible from employees’ gross income under a specific provision of the Code and must not defer compensation, except as specifically allowed in section 125(d)(2)(B), (C) or (D). Examples of qualified benefits include the following: group-term life insurance on the life of an employee (section 79); employer-provided accident and health plans, including health flexible spending arrangements, and accidental death and dismemberment policies (sections 106 and 105(b)); a dependent care assistance program (section 129); an adoption assistance program (section 137); contributions to a section 401(k) plan; contributions to certain plans maintained by educational organizations, and contributions to HSAs. Section 125(f), (d)(2)(B), (C), (D). See Notice 97-9 (1997-2 CB 35) (adoption assistance), see Sec. 601.601(d)(2)(ii)(b); Notice 2004-2, Q & A-33 (2004-1 CB 269) (HSAs), see Sec. 601.601(d)(2)(ii)(b). A cafeteria plan may also offer long-term and short-term disability coverage as a qualified benefit (see section 106). However, see paragraph (q) in Sec. 1.125-1 for nonqualified benefits.

Group-Term Life Insurance

An employer may provide group-term life insurance through a combination of methods. Generally, under section 79(a), the cost of \$50,000 or less of group-term life insurance on the life of an employee provided under a policy (or policies) carried directly or indirectly by an employer is excludible from the employee’s gross income. (Special rules apply to key employees if the group-term life insurance plan does not satisfy the nondiscrimination rules in section 79(d)). However, if the group-term life insurance provided to an employee by an employer or employers exceeds \$50,000 (taking into account all coverage provided both through a cafeteria plan and outside a cafeteria plan), the cost of coverage exceeding coverage of \$50,000 is includible in the employee’s gross income. For this purpose, the cost of group-term life insurance is shown in Sec. 1.79-3(d)(2), Table I (Table I). The Table I cost of the excess group-term life insurance (minus all after-tax contributions by the employee for group-term life insurance coverage) is includible in each covered employee’s gross income. The new proposed regulations provide that the cost of group-term life insurance on the life of an employee, that either is less than or equal to the amount excludible from gross income under section 79(a) or provides coverage in excess of that amount, but not combined with any permanent benefit, is a qualified benefit that may be offered in a cafeteria plan. The new proposed regulations also provide that the entire amount of salary reduction and employer flex credits for group-term life insurance coverage on the life of an employee is excludible from an employee’s gross income.

The rule in the new proposed regulations differs from Notice 89-110 (1989-2 CB 447), see Sec. 601.601(d)(2)(ii)(b). Notice 89-110 provides that an employee includes in gross income the greater of the Table I cost of group-term life insurance coverage exceeding \$50,000 or the employee's salary reduction and employer flex-credits for excess group term life insurance coverage. The new proposed regulations provide instead that the employee includes in gross income the Table I cost of the excess coverage (minus all after-tax contributions by the employee for group-term life insurance coverage) and that the entire amount of salary reduction and employer flex-credits for group-term life insurance coverage on the life of the employee is excludible from the employee's gross income. As noted in this preamble, taxpayers may rely on the new proposed regulations for guidance pending the issuance of final regulations.

Employer-Provided Accident and Health Plan

Coverage under an employer-provided accident and health plan that satisfies the requirements of section 105(b) may be provided as a qualified benefit through a cafeteria plan and is excludible from employees' gross income. Section 106; Sec. 1.106-1. The nondiscrimination rules under section 105(h) apply to self-insured medical reimbursement arrangements (including health FSAs).

The new proposed regulations specifically permit a cafeteria plan (but not a health FSA) to pay or reimburse substantiated individual accident and health insurance premiums. See Rev. Rul. 61-146 (1961-2 CB 25), see Sec. 601.601(d)(2)(ii)(b). In addition, a cafeteria plan may provide for payment of COBRA premiums for an employee. For employer-provided accident and health plans and medical reimbursement plans, the definition of dependents is the definition in section 105(b) as amended by the Working Families Tax Relief Act of 2004 (WFTRA), Public Law 108-311, section 207(9) (118 Stat. 1166) (that is, a dependent as defined in section 152, determined without regard to section 152(b)(1), (b)(2), or (d)(1)(B)). See Notice 2004-79 (2004-2 CB 898), see Sec. 601.601(d)(2)(ii)(b). For purposes of the exclusion from employees' gross income for accident and health plans and for medical reimbursement under sections 105(b) and 106, the spouse or dependent of a former employee (including a retired employee or a laid-off employee) or of a deceased employee is treated as a spouse or dependent. See Rev. Rul. 82-196 (1982-2 CB 53); Rev. Rul. 85-121 (1985-2 CB 57), see Sec. 601.601(d)(2)(ii)(b).

Dependent Care Assistance Programs and Adoption Assistance Programs

If the requirements of section 129 are satisfied, up to \$5,000 of employer-provided assistance for amounts paid or incurred by employees for dependent care is excludible from employees' gross income. The new proposed regulations outline the general requirements for providing dependent care assistance programs and adoption assistance programs under section 137 through a cafeteria plan. See Notice 97-9, section II (1997-2 CB 35), see Sec. 01.601(d)(2)(ii)(b) Cafeteria Plan Year. The new proposed regulations require that a cafeteria plan year must be 12 consecutive months and must be set out in the written cafeteria plan. A short plan year (or a change in plan year resulting in a short plan year) is permitted only for a valid business purpose. A change in plan year resulting in a short plan year, for other than a valid business purpose, is disregarded. If a principal purpose of a change in plan year is to circumvent the rules of section 125, the change in plan year is ineffective.

No Deferral of Compensation

Qualified benefits must be current benefits. In general, a cafeteria plan may not offer benefits that defer compensation or operate to defer compensation. Section 125(d)(2)(A). In general, benefits may not be carried over to a later plan year or used in one plan year to purchase benefits to be provided in a later plan year. For example, life insurance with a cash value build-up or group-term life insurance with a permanent benefit (within the meaning of Sec. 1.79-0) defers the receipt of compensation and thus is not a qualified benefit.

The new proposed regulations clarify whether certain benefits and plan administration practices defer compensation. For example, the regulations permit an accident and health insurance policy to provide certain benefit features that apply for more than one plan year, such as reasonable lifetime limits on benefits, level premiums, premium waiver during disability, guaranteed renewability of coverage, coverage for specified accidental injury or specific diseases, and the payment of a fixed amount per day for hospitalization. But these insurance policies must not provide an investment fund or cash value to pay premiums, and no part of the premium may be held in a separate account for any beneficiary. The new proposed regulations also provide that the following benefits and practices do not defer compensation: a long-term disability policy paying benefits over more than one plan year; reasonable premium rebates or policy dividends; certain two-year lock-in vision and dental policies; certain advance payments for orthodontia; salary reduction contributions in the last month of a plan year used to pay accident and health insurance premiums for the first month of the following plan year; reimbursement of section 213(d) expenses for durable medical equipment; and allocation of experience gains (forfeitures) among participants.

Paid Time Off

Under the prior proposed regulations, permitted taxable benefits included various forms of paid leave. Since the prior proposed regulations were issued, many employers have recharacterized and combined vacation days, sick leave and personal days into a single category of “paid time off.” The new proposed regulations use the term “paid time off” to refer to vacation days and other types of paid leave. The new proposed regulations contain the same ordering rule for elective and nonelective paid time off as set forth in Prop. Sec. 1.125-1, Q & A-7 (1984). A plan offering an election solely between paid time off and taxable benefits is not a cafeteria plan.

Grace Period

The new proposed regulations allow a written cafeteria plan to provide an optional grace period immediately following the end of each plan year, extending the period for incurring expenses for qualified benefits. A grace period may apply to one or more qualified benefits (for example, health FSA or dependent care assistance program) but in no event does it apply to paid time off or contributions to section 401(k) plans. Unused benefits or contributions for one qualified benefit may only be used to reimburse expenses incurred during the grace period for that same qualified benefit. The amount of unused benefits and contributions available during the grace period may be limited by the employer. A grace period may extend to the fifteenth day of the third month after the end of the plan year (but may be for a shorter period). Benefits or contributions not used as of the end of the grace period are forfeited under the use-or-lose rule. The grace period applies to all employees who are participants (including through COBRA), as of the last day of the plan year. Grace period rules must apply uniformly to all participants. The grace period rules in these proposed regulations are based on Notice 2005-42 (2005-1 CB 1204), modified in Notice 2007-22 (2007-10 IRB 670), see Sec. 601.601(d)(2)(ii)(b), amplified in Notice 2005-86 (2005-2 CB 1075), amplified in Notice 2007-22 (2007-10 IRB 670), see Sec. 601.601(d)(2)(ii)(b). For eligibility to contribute to a Health Savings Account (HSA) during a grace period, see Notice 2005-86 (2005-2 CB 1075), see Sec. 601.601(d)(2)(ii)(b). For Form W-2 reporting for unused dependent care assistance used for expenses incurred during a grace period, see Notice 2005-61 (2005-2 CB 607), see Sec. 601.601(d)(2)(ii)(b).

Contributions to Section 401(k) Plans Through a Cafeteria Plan

A cafeteria plan may include contributions to a section 401(k) plan. Section 125(d)(2)(B). The new proposed regulations clarify the interactions between section 125 and section 401(k). Contributions to a section 401(k) plan expressed as a percentage of compensation are permitted. Pursuant to Sec. 1.401(k)-1(a)(3)(ii), elective contributions to a section 401(k) plan may be made through automatic enrollment (that is, when the employee does not affirmatively elect cash, the employee’s compensation is reduced by a fixed percentage, which is contributed to a section 401(k) plan).

Nonqualified Benefits

A cafeteria plan must not offer any of the following benefits: scholarships (section 117); employer-provided meals and lodging (section 119); educational assistance (section 127); fringe benefits (section 132); long-term care insurance. See section 125(f). Long-term care services are nonqualified benefits, H.R. Conf. Rep. No. 736, 104th Cong., 2d Sess. 29, reprinted in 1996 U.S.C.C.A.N. 2109. (An HSA funded through a cafeteria plan may, however, be used to pay premiums for long-term care insurance or for long-term care services.) The new proposed regulations clarify that contributions to Archer Medical Savings Accounts (sections 220, 106(b)), group term life insurance for an employee’s spouse, child or dependent, and elective deferrals to section 403(b) plans are also nonqualified benefits. A plan offering any nonqualified benefit is not a cafeteria plan. A cafeteria plan may not offer a health FSA that provides for the carryover of unused benefits. See Notice 2002-45, Part I (2002-2 CB 93); Rev. Rul. 2002-41 (2002-2 CB 75), see Sec. 601.601(d)(2)(ii)(b).

After-Tax Employee Contributions

The new proposed regulations allow a cafeteria plan to offer after-tax employee contributions for qualified benefits or paid time off. A cafeteria plan may only offer the taxable benefits specifically permitted in the new proposed regulations. Nonqualified benefits may not be offered through a cafeteria plan, even if paid with after-tax employee contributions.

Employer Contributions Through Salary Reduction

Employees electing a qualified benefit through salary reduction are electing to forego salary and instead to receive a benefit which is excludible from gross income because it is provided by employer contributions. Section 125 provides that the employee is treated as receiving the qualified benefit from the employer in lieu of the taxable benefit. A cafeteria plan may also impose reasonable fees to administer the cafeteria plan which may be paid through salary reduction. A cafeteria plan is not required to allow employees to pay for any qualified benefit with after-tax employee contributions.

II. New Prop. Sec. 1.125-2--Elections in Cafeteria Plans

Making, Revoking and Changing Elections

Generally, a cafeteria plan must require employees to elect annually between taxable benefits and qualified benefits. Elections must be made before the earlier of the first day of the period of coverage or when benefits are first currently available. The determination of whether a taxable benefit is currently available does not depend on whether it has been constructively received by the employee for purposes of section 451. Annual elections generally must be irrevocable and may not be changed during the plan year. However, Sec. 1.125-4 permits a cafeteria plan to provide for changes in elections based on certain changes in status. An employer that wishes to permit such changes in elections must incorporate the rules in Sec. 1.125-4 in its written cafeteria plan. These proposed regulations omit the rule in Q & A-6(b) in Prop. Sec. 1.125-2 (1989) (cessation of required contributions), because the change in status rules in Sec. 1.125-4 superseded this provision of the 1989 proposed regulations.

If HSA contributions are made through salary reduction under a cafeteria plan, employees may prospectively elect, revoke or change salary reduction elections for HSA contributions at any time during the plan year with respect to salary that has not become currently available at the time of the election.

A cafeteria plan is permitted to include an automatic election for new employees or current employees. Rev. Rul. 2002-27 (2002-1 CB 925), see Sec. 601.601(d)(2)(ii)(b). A new rule also permits a cafeteria plan to provide an optional election for new employees between cash and qualified benefits. New employees avoid gross income inclusion if they make an election within 30 days after the date of hire even if benefits provided pursuant to the election relate back to the date of hire. However, salary reduction amounts used to pay for such an election must be from compensation not yet currently available on the date of the election. Also, this special election rule for new employees does not apply to any employee who terminates employment and is rehired within 30 days after terminating employment (or who returns to employment following an unpaid leave of absence of less than 30 days).

New elections and revocations or changes in elections can be made electronically. The safe harbor for electronic elections in Sec. 1.401(a)-21 is available. Only an employee can make an election or revoke or change his or her election. An employee's spouse or dependent may not make an election under a cafeteria plan and may not revoke or change an employee's election.

III. New Prop. Sec. 1.125-5--Flexible Spending Arrangements

Overview

In general, a flexible spending arrangement (FSA) is a benefit designed to reimburse employees for expenses incurred for certain qualified benefits, up to a maximum amount not substantially in excess of the salary reduction and employer flex-credits allocated for the benefit. The maximum amount of reimbursement reasonably available must be less than five times the value of the coverage. Employer flex-credits are non-elective employer contributions that an employer makes available for every employee eligible to participate in the cafeteria plan, to be used at the employee's election only for one or more qualified benefits (but not as cash or other taxable benefits). The three types of FSAs are dependent care assistance, adoption assistance and medical care reimbursements (health FSA).

Uniform Coverage Rule

The new proposed regulations retain the rule that the maximum amount of reimbursement from a health FSA must be available at all times during the period of coverage (properly reduced as of any particular time for prior reimbursements). The uniform coverage rule does not apply to FSAs for dependent care assistance or adoption assistance.

Use-or-Lose Rule

An FSA must satisfy all the requirements of section 125, including the prohibition against deferring compensation. In general, as discussed under "no deferral of compensation", in order to satisfy this requirement of section 125, all benefits and contributions must be used by the end of the plan year (or grace period, if applicable), or are forfeited. The new proposed regulations continue the use-or-lose rule.

Period of Coverage

The required period of coverage for all FSAs continues to be twelve months, with an exception for short plan years that satisfy the conditions in the new proposed regulations. The period of coverage and the plan year need not be the same. The beginning and end of a period of coverage is clarified. The new proposed regulations also clarify that FSAs for

different qualified benefits need not have the same coverage period. See also “Grace period”, discussed in this preamble. The new proposed regulations also continue to provide that expenses are incurred when services are provided. Expenses incurred before or after the period of coverage may not be reimbursed.

Health FSA

A health FSA may only reimburse certain substantiated section 213(d) medical care expenses incurred by the employee, or by the employee’s spouse or dependents. A health FSA may be limited to a subset of permitted section 213(d) medical expenses (for example, a health FSA is permitted to exclude reimbursement of over-the-counter drugs described in Rev. Rul. 2003-102 (2003-2 CB 559), see Sec. 601.601(d)(2)(ii)(b)). Similarly, a health FSA may be an HSA compatible limited-purpose health FSA or post-deductible health FSA. Rev. Rul. 2004-45 (2004-1 CB 971), see Sec. 601.601(d)(2)(ii)(b), amplified, Notice 2005-86 (2005-2 CB 1075). A health FSA may not reimburse premiums for accident and health insurance or long-term care insurance. See section 125(f).

A health FSA must satisfy all requirements of section 105(b), Sec. Sec. 1.105-1 and 1.105-2. The section 105(h) nondiscrimination rules apply to health FSAs. All medical expenses must be substantiated before expenses are reimbursed. See Incurring and reimbursing expenses for qualified benefits, discussed in this preamble. The new proposed regulations also clarify when medical expenses are incurred.\1\ A cafeteria plan may limit enrollment in a health FSA to those employees who participate in the employer’s accident and health plan.

\1\ See Rev. Rul. 2005-55 (2005-2 CB 284) and Rev. Rul. 2005-24 (2005-1 CB 892), see Sec. 601.601(d)(2)(ii)(b) (section 105(b) exclusion only applicable to reimbursements for medical expenses incurred by employee, or by the employee’s spouse or dependents); Rev. Rul. 2002-3 (2002-1 CB 316) (purported reimbursements to employees of health insurance premiums not paid by employees and therefore impermissible); Rev. Rul. 2002-80 (2002-2 CB 925), see Sec. 601.601(d)(2)(ii)(b) (so-called advance reimbursements and purported loans are impermissible); Rev. Rul. 2003-43 (2003-1 CB 935), see Sec. 601.601(d)(2)(ii)(b); Notice 2006-69 (2006-31 IRB 107) (substantiation requirements for debit cards), amplified in Notice 2007-2 (2007-2 IRB 254), see Sec. 601.601(d)(2)(ii)(b).

Qualified HSA Distributions

Section 106(e), enacted in section 302 of the Health Opportunity Patient Empowerment Act of 2006, Public Law 109-432 (120 Stat. 2922 (2006)) allows “qualified HSA distributions” from health FSAs to HSAs. Section 106(e) applies to distributions between December 20, 2006 and December 31, 2011. The proposed regulations incorporate the rules on qualified HSA distributions set forth in Notice 2007-22 (2007-10 IRB 670). See Sec. 601.601(d)(2)(ii)(b).

The distribution must not be more than the lesser of the balance in the health FSA on September 21, 2006, or the date of the distribution. If you were not covered by a health FSA on September 21, 2006, you cannot elect to make a qualified HSA distribution from the health FSA. If you were covered by a health FSA with an employer on September 21, 2006, but change employers after that date, you cannot elect to make a qualified HSA distribution from your second employer’s health FSA.

The following conditions must be met to make a qualified HSA distribution.

- The plan must have been amended to allow these distributions.
- You must elect to make the rollover.
- The year-end balance in the health FSA must be frozen.
- The funds must be transferred within 2½ months after the end of the health FSA’s plan year and result in a zero balance in the health FSA.
- The distribution must be contributed directly to the HSA trustee by the employer.

Only one qualified HSA distribution is allowed for each health FSA. If you do not remain an eligible individual for HSA purposes during the testing period, the distribution is included in your income and is subject to a 10% additional tax. For more information, see Notice 2007-22, 2007-10 I.R.B. 670

Dependent Care Assistance After Termination

A new optional rule permits an employer to reimburse a terminated employee’s qualified dependent care expenses incurred after termination through a dependent care FSA, if all section 129 requirements are otherwise satisfied.

Experience Gains

If an employee fails to use all contributions and benefits for a plan year before the end of the plan year (and the grace period, if applicable), those unused contributions and benefits are forfeited under the use-or-lose rule. Unused amounts are also known as experience gains. The new proposed regulations retain the forfeiture allocation rules in the 1989 proposed regulations, and clarify that the employer sponsoring the cafeteria plan may retain forfeitures, use forfeitures to defray expenses of administering the plan or allocate forfeitures among employees contributing through salary reduction on a reasonable and uniform basis.

FSA Administrative Rules

Salary reduction contributions may be made at whatever interval the employer selects, including ratably over the plan year based on the employer's payroll periods or in equal installments at other regular intervals (for example, quarterly installments). These rules must apply uniformly to all participants.

IV. New Prop. Sec. 1.125-6--Substantiation of Expenses for All Cafeteria Plans

Incurring and Reimbursing Expenses for Qualified Benefits

The new proposed regulations provide that only expenses for qualified benefits incurred after the later of the effective date or the adoption date of the cafeteria plan are permitted to be reimbursed under the cafeteria plan. Similarly, if a plan amendment adds a new qualified benefit, only expenses incurred after the later of the effective date or the adoption date are eligible for reimbursement.² This rule applies to all qualified benefits. Similarly, a cafeteria plan may pay or reimburse only expenses for qualified benefits incurred during a participant's period of coverage.

² See *American Family Mut. Ins. Co. v. United States*, 815 F. Supp. 1206 (W.D. Wis. 1992); *Wollenberg v. United States*, 75 F. Supp.2d 1032 (D. Neb. 1999); Rev. Rul. 2002-58 (2002-2 CB 541), see Sec. 601.601(d)(2)(ii)(b); Notice 97-9, section II (adoption assistance).

Substantiation and Reimbursement of Expenses for Qualified Benefits

The new proposed regulations provide, after an employee incurs an expense for a qualified benefit during the coverage period, the expense must first be substantiated before the expense may be paid or reimbursed. All expenses must be substantiated (substantiating only a limited number of total claims, or not substantiating claims below a certain dollar amount does not satisfy the requirements in the new proposed regulations). See Sec. 1.105-2; Rul. 2003-80; Rev. Rul. 2003-43 (2003-1 CB 935), see Sec. 601.601(d)(2)(ii)(b); Notice 2006-69 (2006-31 IRB 107), Notice 2007-2 (2007-2 IRB 254). FSAs for dependent care assistance and adoption assistance must follow the substantiation procedures applicable to health FSAs.

Debit Cards

The new proposed regulations incorporate previously issued guidance on substantiating, paying and reimbursing expenses for section 213(d) medical care incurred at a medical care provider when payment is made with a debit card. Rev. Rul. 2003-43 (2003-1 CB 935), amplified, Notice 2006-69 (2006-31 IRB 107), Notice 2007-2 (2007-2 IRB 254); Rev. Proc. 98-25 (1998-1 CB 689), see Sec. 601.601(d)(2)(ii)(b). Among the permissible substantiation methods are copayment matches, recurring expenses, and real-time substantiation. The new proposed regulations also allow point-of-sale substantiation through matching inventory information with a list of section 213(d) medical expenses. The employer is responsible for ensuring that the inventory information approval system complies with the new regulations and with the recordkeeping requirements in section 6001. Rev. Rul. 2003-43 (2003-1 CB 935), amplified, Notice 2006-69 (2006-31 IRB 107), Notice 2007-2 (2007-2 IRB 254); Rev. Proc. 98-25 (1998-1 CB 689), see Sec. 601.601(d)(2)(ii)(b). The new proposed regulations also provide rules under which an FSA may pay or reimburse dependent care expenses using debit cards.

Pursuant to prior guidance (in Notice 2006-69 (2006-31 IRB 107), amplified, Notice 2007-2 (2007-2 IRB 254)), for plan years beginning after December 31, 2006, the recordkeeping requirements described in paragraph (f) in Sec. 1.125-6 apply (that is, responsibility of employers relying on the inventory information approval system for health FSA debit cards to ensure that the system complies with the new proposed recordkeeping requirements, including Rev. Proc. 98-25 (1998-1 CB 689), Notice 2006-69 (2006-31 IRB 107), amplified, Notice 2007-2 (2007-2 IRB 254)). For health FSA debit card transactions occurring on or before December 31, 2007, all supermarkets, grocery stores, discount stores and wholesale clubs that do not have a medical care merchant category code (as described in Rev. Rul. 2003-43 (2003-2 CB 935)) are nevertheless deemed to be an "other medical provider" as described in Rev. Rul. 2003-43. (For a list of

merchant category codes, see Rev. Proc. 2004-43 (2004-2 CB 124).) During this time period, mail-order vendors and web-based vendors that sell prescription drugs are also deemed to be an “other medical provider” as described in Rev. Rul. 2003- 43. After December 31, 2008, health FSA debit cards may not be used at stores with the Drug Stores and Pharmacies merchant category code unless (1) the store participates in the inventory information approval system described in Notice 2006-69, or (2) on a store location by store location basis, 90 percent of the store’s gross receipts during the prior taxable year consisted of items which qualify as expenses for medical care under section 213(d). Notice 2006-69 (2006-31 IRB 107), amplified, Notice 2007-2 (2007-2 IRB 254).

V. New Prop. Sec. 1.125-7--Nondiscrimination Rules

Discriminatory benefits provided to highly compensated participants and individuals and key employees are included in these employees’ gross income. See section 125(b), (c). The new proposed regulations reflect changes in tax law since Prop. Sec. 1.125-1, Q & A-9 through 13 and 19 were proposed in 1984, including the key employee concentration test, statutory nontaxable benefits (enacted in the Deficit Reduction Act of 1984 (DEFRA), Public Law 98-369, section 531(b), (98 Stat. 881(1984))), and the change in definition of dependent in WFTRA.

The new proposed regulations provide additional guidance on the cafeteria plan nondiscrimination rules, including definitions of key terms, guidance on the eligibility test and the contributions and benefits tests, descriptions of employees allowed to be excluded from testing and a safe harbor nondiscrimination test for premium-only-plans.

Specifically, the new proposed regulations define several key terms, including highly compensated individual or participant (consistent with the section 414(q) definition of highly compensated employee), officer, five percent shareholder, key employee and compensation. The new proposed regulations also provide guidance on the non-discrimination as to eligibility requirement by incorporating some of the rules under section 410(b) (specifically the rules under Sec. 1.410(b)-4(b) and (c) dealing with reasonable classification, the safe harbor percentage test and the unsafe harbor percentage component of the facts and circumstances test).

The new proposed regulations also provide additional guidance on the contributions and benefits test and, unlike the prior proposed regulations, the new proposed regulations provide an objective test to determine when the actual election of benefits is discriminatory. Specifically, the new proposed regulations provide that a cafeteria plan must give each similarly situated participant a uniform opportunity to elect qualified benefits, and that highly compensated participants must not actually disproportionately elect qualified benefits. Finally, the new rules provide guidance on the safe harbor for cafeteria plans providing health benefits and create a safe harbor for premium-only-plans that satisfy certain requirements.

The example in Prop. Sec. 1.125-1, Q & A-11 (1984) is deleted because it concerns a qualified legal services plan, which is no longer a qualified benefit.

Other Issues

These proposed regulations provide guidance under section 125 (26 U.S.C. 125). Other statutes may impose additional requirements (for example, the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1000), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), (sections 9801-9803); and the continuation coverage requirements under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (section 4980B)).

Proposed Effective Date

With the exceptions noted in the “Effect on other documents” section of this preamble and under the “Debit cards” section of the preamble, it is proposed that these regulations apply for plan years beginning on or after January 1, 2009. Taxpayers may rely on these regulations for guidance pending the issuance of final regulations. Prior published guidance on qualified benefits under sections 79, 105, 106, 129, 137 and 223 that is affected by these proposed regulations remains applicable through the effective date of the final regulations (except as modified in “Effect on other documents” section of this preamble).

Effect on Other Documents

Notice 89-110 (1989-2 CB 447), see Sec. 601.601(d)(2)(ii)(b), states that where group-term life insurance provided to an employee by an employer exceeds \$50,000, the employee includes in gross income the greater of the cost of group-term life insurance shown in Sec. 1.79-3(d)(2), Table I (Table I) on the excess coverage or the employee’s salary reduction and employer flex-credits for excess coverage. Notice 89-110 is modified, effective as of the date the proposed regulations are published in the Federal Register.

Published guidance under Sec. 105(b) states that if any person has the right to receive cash or any other taxable or nontaxable benefit under a health FSA other than the reimbursement of section 213(d) medical expenses of the employee, employee's spouse or employee's dependents, then all distributions made from the arrangement are included in the employee's gross income, even amounts paid to reimburse medical care. See Rev. Rul. 2006-36 (2006-36 IRB 353); Rev. Rul. 2005-24 (2005-1 CB 892); Rev. Rul. 2003-102 (2003-2 CB 559); Notice 2002-45 (2002-2 CB 93); Rev. Rul. 2002-41 (2002-2 CB 75); Rev. Rul. 69-141 (1969-1 CB 48). New section 106(e) provides that a health FSA will not fail to satisfy the requirements of sections 105 or 106 merely because the plan provides for a qualified HSA distribution. Amounts rolled into an HSA may be used for purposes other than reimbursing the section 213(d) medical expenses of the employee, spouse or dependents. Accordingly, Rev. Rul. 2006-36, Rev. Rul. 2005-24, Rev. Rul. 2003-102, Notice 2002-45, Rev. Rul. 2002-41, and Rev. Rul. 69-141 are modified with respect to qualified HSA distributions described in section 106(e). See Notice 2007-22 (2007-10 IRB 670), see Sec. 601.601(d)(2)(ii)(b).

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation. It is hereby certified that the collection of information in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations will only minimally increase the burdens on small entities. The requirements under these regulations relating to maintaining a section 125 cafeteria plan are a minimal additional burden independent of the burdens encompassed under existing rules for underlying employee benefit plans, which exist whether or not the benefits are provided through a cafeteria plan. In addition, most small entities that will maintain cafeteria plans already use a third-party plan administrator to administer the cafeteria plan. The collection of information required in these regulations, which is required to comply with the existing substantiation requirements of sections 105, 106, 129 and 125, and the recordkeeping requirements of section 6001, will only minimally increase the third-party administrator's burden with respect to the cafeteria plan. Therefore, an analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this proposed regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing

DOWNLOAD A COPY OF THE EXACT CODE AT www.CoreDocuments.com/forms.php

Simple Cafeteria Plan

After December 31, 2010, eligible employers meeting contribution requirements and eligibility and participation requirements can establish a simple cafeteria plan. Simple cafeteria plans are treated as meeting the nondiscrimination requirements of a cafeteria plan and certain benefits under a cafeteria plan.

Eligible Employer

You are an eligible employer if you employ an average of 100 or fewer employees during either of the two preceding years. If your business was not in existence throughout the preceding year, you are eligible if you reasonably expect to employ an average of 100 or fewer employees in the current year. If you establish a simple cafeteria plan in a year that you employ an average of 100 or fewer employees, you are considered an eligible employer for any subsequent year as long as you do not employ an average of 200 or more employees in a subsequent year.

Eligibility and Participation Requirements

These requirements are met if all employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate and each employee eligible to participate in the plan may elect any benefit available under the plan. You may elect to exclude from the plan employees who:

1. Are under age 21 before the close of the plan year,
2. Have less than 1 year of service with you as of any day during the plan year,
3. Are covered under a collective bargaining agreement, or
4. Are nonresident aliens working outside the United States whose income did not come from a U.S. source.

Contribution Requirements

You must make a contribution to provide qualified benefits on behalf of each qualified employee in an amount equal to:

1. A uniform percentage (not less than 2%) of the employee's compensation for the plan year, or
2. An amount which is at least 6% of the employee's compensation for the plan year or twice the amount of the salary reduction contributions of each qualified employee, whichever is less.

If the contribution requirements are met using option (2) above, the rate of contribution to any salary reduction contribution of a highly compensated or key employee can not be greater than the rate of contribution to any other employee.

(Publication 15-B 2011)

-If you have less than 100 employees;

-If employees that work 1,000 hours or more per year are eligible;

-If any eligible employee may choose any benefit available under the plan;

-If employees that have been employed by you one year (or less) are eligible;

-If employees over 21 are not excluded; and

-If you contribute either

1. A uniform percentage (not less than 2%) of the employee's compensation for the plan year, **or**
 2. An amount which is at least 6% of the employee's compensation for the plan year or twice the amount of the salary reduction contributions of each qualified employee, whichever is less.
- HCE salary reduction contribution cannot be greater than that of any other employee.

Then you have a **Simple Cafeteria Plan!** There is no need to perform Nondiscrimination testing.

Nondiscrimination

The proposed rules, for the first time in more than twenty years, try to elaborate on the application of various non-discrimination rules to cafeteria plans. Cafeteria plans cannot favor highly compensated individuals (HCIs) as to eligibility, or favor highly compensated participants as to contributions and benefits (Treas. Reg. §1.125-7). In applying this eligibility test, certain individuals are allowed to be disregarded, including COBRA qualified beneficiaries. In other words, the test is run based on the active employee population.

The rules apply to cafeteria plans generally, and specifically to HSAs offered through a cafeteria plan and health FSAs.

Under the safe harbor provisions, plans that meet certain criteria fall within a safe harbor, that is, are deemed nondiscriminatory.

Definitions

Under the new proposed rules, an HCI means an individual who is:

- 1) an officer;
- 2) a 5-percent shareholder; or
- 3) highly compensated (Treas. Reg. §1.125-7(a)(3)(i)).

Spouses and dependents of HCIs also are HCIs (Treas. Reg. §1.125-7(a)(3)(ii)).

A highly compensated participant (HCP) means an HCI who is eligible to participate in a cafeteria plan (Treas. Reg. §1.125-7(a)(4)).

An “officer” for the nondiscrimination test means an individual or participant who for the preceding year was an officer. Status as an officer depends on the source of the individual’s authority, the term of his or her election or appointment, and the nature and extent of duties. Generally, the term “officer” means an administrative executive who is in regular and continued service. The officer title without authority is not an “officer” for the rules’ nondiscrimination purposes (Treas. Reg. §1.125-7(a)(7)).

A “key employee” is defined as under pension provisions (Code Section 416) as an employee who is an:

- 1) officer with compensation above a defined threshold (indexed) for the plan year as defined in the Section 415(b)(1)(A));
- 2) a 5-percent owner of the employer; or
- 3) a 1-percent owner having annual compensation from the employer of more than a threshold amount as defined in Section 416 (Treas. Reg. §1.125-7(a)(10)).

Eligibility test

Cafeteria plans cannot discriminate as to eligibility in favor of HCIs. The proposed cafeteria plan rules incorporate the pension plan safe-harbor percentage test for eligibility from Treas. Reg. §1.410. Under this test, a certain minimum percentage of nonhighly compensated individuals must be benefiting under the plan relative to a certain percentage of HCIs (Treas. Reg. §1.125-7(b)).

If enough rank-and-file employees benefit relative to the number of HCIs benefiting, the plan falls within what is called a safe harbor - or a zone of ratios automatically deemed not to discriminate (Treas. Reg. §1.125-7(b)).

If the ratio of rank-and-file employees benefiting in the cafeteria plan relative to the HCIs is too low, then the plan is deemed discriminatory. However, a plan that fails the ratios test may yet qualify under another part of the test referred to as the facts-and-circumstances test (Treas. Reg. §1.125-7(b)). For example, there may be a legitimate business reason for discriminatory eligibility, such as rank-and-file employees residing outside an HMO service area who thus do not qualify for plan coverage.

Contributions and benefits test

Under another test, a cafeteria plan cannot discriminate in favor of HCPs regarding contributions and benefits (Treas. Reg. §1.125-7(c)(1)). A plan must give each similarly situated participant a uniform chance to elect qualified benefits, and the HCPs must not in disproportionate numbers actually elect those benefits (Treas. Reg. §1.125-7(c)(2)).

Under the benefits test, disproportionate election exists if the aggregate qualified benefits that HCPs elect, measured as a percentage of their aggregate compensation, exceeds the aggregate qualified benefits that nonhighly compensated participants elect, measured as a percentage of their aggregate compensation (Treas. Reg. §1.125-7(c)(2)).

Example. Contel's cafeteria plan meets eligibility requirements. HCPs in the plan elect aggregate qualified benefits equaling 5 percent of aggregate compensation; nonhighly compensated participants elect aggregate qualified benefits equaling 10 percent of aggregate compensation. Contel's cafeteria plan passes the contributions and benefits test.

Key employees test

There also is a key employees test. If nontaxable benefits provided to key employees exceed 25 percent of the aggregate nontaxable benefit provided for all employees through the cafeteria plan, each key employee includes in gross income an amount equaling the maximum taxable benefits that he or she could have elected for the plan year (Treas. Reg. §1.125-7(d)(1)).

However, there is a safe harbor for POPs under which a POP passes the contributions and benefits test and the key employee test if it meets the safe harbor percentage test for eligibility described above (Treas. Reg. §1.125-7(f)(1)).

To illustrate the key employees test:

Example. Employer Durango's cafeteria plan offers all employees an election between taxable benefits (such as cash) and qualified benefits (such as excludable health benefits) and meets the eligibility test. Durango has two key employees and four nonhighly compensated employees. Key employees each elect \$2,000 of qualified benefits. Each nonhighly compensated employee also elects \$2,000 of qualified benefits.

Key employees receive \$4,000 of nontaxable benefits and nonhighly compensated employees receive \$8,000 of nontaxable benefits, for a total of \$12,000. Key employees receive 33 percent of nontaxable benefits. Because the plan provides more than 25 percent of aggregate nontaxable benefits to key employees, the plan fails the key employee concentration test (Treas. Reg. §1.125-7(d)(2)).

To illustrate the POP safe harbor:

Example. Employer Fox's written POP offers one health plan and offers all employees the election to salary reduce the same amount or same percentage of the premium for self-only or family coverage. All key employees and all highly compensated employees elect salary reduction for the health plan, but only 20 percent of nonhighly compensated employees elect the health plan (Treas. Reg. §1.125-7(f)(2)(i)).

The POP satisfies the eligibility and contributions and benefits tests (Treas. Reg. §1.125-7(f)(2)(ii)).

Health plan safe harbor

In addition, there is a contributions and benefits test safe harbor for group health plans — but not dental or health FSAs. The safe harbor applies if the contribution on behalf of each participant equals 100 percent of the cost of health coverage of the majority of similarly situated HCPs, or at least equals 75 percent of the cost of health coverage of the similarly situated participant with the highest cost health coverage under the plan (Treas. Reg. §1.125-7(e)(1)).

Aggregation

Employers that sponsor more than one cafeteria plan have the option to aggregate plans for nondiscrimination testing purposes, which could provide flexibility particularly to employers in industries with high turnover or low participation rates, for example (Treas. Reg. §1.125-7(g)(2)).

Plans are required to do nondiscrimination testing annually. Tests must be done as of the last day of the plan year (Treas. Reg. §1.125-7(j)(1)).

Example. Employer Hoopla has three employees and maintains a calendar year cafeteria plan. During 2009 Jay was an employee the entire year, Kay was an employee from May 1 through Aug. 31, 2009, and Lai was an employee from Jan. 1 to April 15, 2009.

Nondiscrimination testing must be done for the 2009 plan year and must be performed on Dec. 31, 2009, taking into account employees Jay, Kay and Lai's compensation in the preceding year (Treas. Reg. §1.125-7(j)(2)).

Section 125 Plan Non-discrimination Testing Instructions and Forms

The discrimination rules described in the IRC Section 125 are applied to all benefits provided in a cafeteria plan in the aggregate.

The discrimination rules applicable to cafeteria plans are found in Section 125 of the Internal Revenue Code. Under these rules, a plan cannot discriminate in favor of highly compensated employees or participants for purposes of the Eligibility Test or discriminate in favor of highly compensated participants for purposes of the Contributions and Benefits Test. A plan also cannot discriminate in favor of key employees for purposes of the Key Employee Concentration Test. The required tests are as follows:

Eligibility Test: A plan cannot discriminate in favor of highly compensated employees (defined in #1 below) as to eligibility to participate.

Contributions and Benefits Test: A plan cannot discriminate in favor of highly compensated participants (defined in #1 below) as to contributions and benefits.

Concentration Test: Benefits to key employees (defined in #2 below) under the plan cannot exceed 25% of the aggregate benefits provided to all employees under the plan.

1. For purposes of the **Eligibility, Contributions and Benefits Tests**, who are “highly compensated employees”?

A highly compensated employee is an employee who is:

- An officer;
- A shareholder owning more than 5% of the voting power or value of all classes of stock of the employer;
- Highly compensated \$130,000 in 2019; or
- A spouse or dependent of one of the above.

2. For purpose of the **Concentration Test**, who is a “key employee”?

A key employee is an employee who is:

- An officer with annual compensation more than \$185,000 (for 2019), as indexed;
- A more than 5% owner; or
- A more than 1% owner with compensation over \$150,000, not indexed.

What nondiscrimination rules apply to Premium Only Plans?

A Premium Only Plan that pays medical premiums on a pre-tax basis is governed by Section 106 of the Code, which does not provide any rules regarding nondiscrimination. Thus, the rules above under Item 1 will apply to Premium Only Plans for medical premiums. If all employees are eligible to have their salary reduced pre-tax to pay medical premiums, and the amount of premium does not vary (except for levels of coverage), the plan should pass the nondiscrimination tests. In addition, if a Premium Only Plan also involves the payment of group life insurance premiums, it will be subject to the nondiscrimination rules under Item 1 above.

Consequences of Test Failures

What happens if the plan discriminates in favor of either highly compensated employees or key employees?

If either the **Eligibility Test** or **Contribution and Benefits Test** fail, all highly compensated employees participating in the plan must claim the amount of benefit that they COULD have received from the plan as income on their taxes for that year. If the **Concentration Test** fails, all key employees participating in the plan must claim the amount of benefit that they COULD have received from the plan as income on their taxes for that year.

Some employees can be excluded when determining the top paid group. These include employees who:

1. Have not completed 6 months of service.
2. Normally work less than 17 ½ hours per week.
3. Normally work not more than 6 months per year.

Compensation includes taxable compensation and salary reductions under cafeteria plans, 401(k) plans, and tax sheltered annuities. Stock owned by an employee's spouse, children, grandchildren, or parents is treated as owned by the employee. (See IRC Section 318)

Excluded Employees

Section 125 provides no specific authority to exclude a group of employees. However, plan administrators have routinely "borrowed" exclusions from other code sections and applied them to cafeteria plans in general. Check the plan document for details on excluded employees.

Eligibility Discrimination

A plan will not be treated as discriminatory as to eligibility, if the plan:

1. Benefits a group of employees who qualify under a classification established by the employer and found by the IRS not to be discriminatory in favor of highly compensated employees (see IRC Section 410(b)(20(A)(I)); and
2. Meets the requirements of (a) and (b) below:
 - a. No employee is required to complete more than 3 years of employment with the employer or employers maintaining the plan as a condition of participating in the plan, and the employment requirement for each employee is the same.
 - b. An employee who has satisfied the employment requirement of (a) above, and who is otherwise entitled to participate in the plan, commences participation no later than the first day of the first plan year beginning after the date the employment requirement was satisfied unless the employee was separated from service before the first day of that plan year.

Contributions and Benefits

A plan will not be discriminatory as to contributions and benefits if total benefits and nontaxable benefits do not discriminate in favor of highly compensated employees. Generally this determination will be made on the basis of facts and circumstances.

Section 125(c) provides a safe harbor. It provides that a cafeteria plan does not discriminate as to contributions and benefits if the qualified benefits and total benefits (or employer contributions allocable to qualified benefits and employer contributions for total benefits) do not discriminate in favor of highly compensated participants. The regulations under Reg. Section 1.125-1 Q & A 19 states that: "a plan must satisfy section 125(c) with respect to both benefit availability and benefit selection. Thus, a plan must give each participant an equal opportunity to select nontaxable benefits, and the actual selection of nontaxable benefits under the plan must not be discriminatory, i.e., highly compensated participants do not disproportionately select nontaxable benefits while other participants select taxable benefits."

The regulations merely provide that the utilization non disproportionately favor highly compensated participants. Unfortunately, there is no guidance as to what this means.

For example, suppose an employer allows salary redirections to a cafeteria plan to pay for dependent coverage for health insurance. All highly compensated eligible employees (100%) elect coverage. Does this satisfy IRC Section 125(c)? Presumably this plan disproportionately favors highly compensated participants.

Eligibility
IRC Section 125(B)(1)(A)

A Plan cannot discriminate in favor of highly compensated employees as to eligibility to participate.

Fails

Contributions and Benefits
IRC Section 125(b)(1)(B)

Contributions and benefits cannot discriminate in favor of highly compensated employees.

Fails

25% Concentrations Test
IRC Section 125(b)(2)

No more than 25% of the benefits may be provided to key employees.

Fails

Passes

If pass all tests, all benefits are excluded from income for both highly compensated and key employees.

Highly compensated are taxed on maximum taxable benefit.

Key employees are taxed on available benefits.

Table I
Safe/Unsafe Harbor Table

| Non-highly Compensated Employee Concentration Percentage | Safe Harbor Percentage | Unsafe Harbor Percentage |
|---|-----------------------------------|-------------------------------------|
| 0-60% | 50.00% | 40.00% |
| 61 | 49.25% | 39.25% |
| 62 | 48.50% | 38.50% |
| 63 | 47.75% | 37.75% |
| 64 | 47.00% | 37.00% |
| 65 | 46.25% | 36.25% |
| 66 | 45.50% | 35.50% |
| 67 | 44.75% | 34.75% |
| 68 | 44.00% | 34.00% |
| 69 | 43.25% | 33.25% |
| 70 | 42.50% | 32.50% |
| 71 | 41.75% | 31.75% |
| 72 | 41.00% | 31.00% |
| 73 | 40.25% | 30.25% |
| 74 | 39.50% | 29.50% |
| 75 | 38.75% | 28.75% |
| 76 | 38.00% | 28.00% |
| 77 | 37.25% | 27.25% |
| 78 | 36.50% | 26.50% |
| 79 | 35.75% | 25.75% |
| 80 | 35.00% | 25.00% |
| 81 | 34.25% | 24.25% |
| 82 | 33.50% | 23.50% |
| 83 | 32.75% | 22.75% |
| 84 | 32.00% | 22.00% |
| 85 | 31.25% | 21.25% |
| 86 | 30.50% | 20.50% |
| 87 | 29.75% | 20.00% |
| 88 | 29.00% | 20.00% |
| 89 | 28.25% | 20.00% |
| 90 | 27.50% | 20.00% |
| 91 | 26.75% | 20.00% |
| 92 | 26.00% | 20.00% |
| 93 | 25.25% | 20.00% |
| 94 | 24.50% | 20.00% |
| 95 | 23.75% | 20.00% |
| 96 | 23.00% | 20.00% |
| 97 | 22.25% | 20.00% |
| 98 | 21.50% | 20.00% |
| 99 | 20.75% | 20.00% |

Eligibility Classification Test

(All Plans) Reg. Section 410(b)

(Company Name)

Plan Year Ended _____

| | Total Employees | Highly Compensated | Non-highly Compensated |
|---|----------------------------|-------------------------------|-----------------------------------|
| 1. Total employees | _____ | _____ | _____ |
| 2. Employees ineligible under the plan | _____ | _____ | _____ |
| 3. Total eligible employees (Subtract line 2 from line 1) | _____ (A) | _____ | _____ (B) |
| 4. Total employees excluded from benefiting | _____ | _____ | _____ |
| 5. Total employees eligible to benefit (Subtract line 4 from line 3) | _____ | _____ | _____ (C) |
| 6. Concentration of non-highly compensated employees (Divide Non-highly compensated (B) by Total Employees (A)) | | | _____ % |
| 7. Safe Harbor percentage | | | _____ % |
| 8. Unsafe Harbor percentage | | | _____ % |
| 9. Percentage of non-excluded, non-highly compensated employees eligible to benefit under the plan. (Divide Non-highly Compensated (C) by Non-highly Compensated (B)) | | | _____ % |

Conclusion:

If line 9 is less than line 7, then it fails the Nondiscriminatory Classification Test.

IRC Section 125 — Cafeteria Plan

Highly Compensated Employees (HCE) — IRC 125(e) (All Plans)

This Form Just Helps You Identify and Document HCEs

(Company Name)

Plan Year Ended _____

This page simply helps you identify and list Highly Compensated Employees in your group.

List all employees who fit into one or more of the following categories. An employee may be classified as highly compensated on the basis of more than one category. When listing highly compensated employees, list each employee only once.

1. List all employees at any time during the **current plan year** with more than 5% ownership.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

2. List all employees who, during the **current plan year**, were officers.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

3. List all employees who are a spouse or dependent (within the meaning of IRC Section 152) of any individual listed in 1 or 2 above.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

4. List all employees who are highly compensated (\$130,000 in 2021) as indexed annually within the meaning of IRC Section 414(q).

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

IRC Section 125 — Cafeteria Plan
Key Employees — IRC 416(i)(1)(A) - (All Plans)
This Form Simply Helps You Identify and Document Key Employees

(Company Name)

Plan Year Ended _____

This page simply helps you identify and list all the key employees in your group.

List all employees who, at any time during the current plan year or for any of the 4 preceding plan years, fit into one or more of the following 4 categories. An employee may be classified as a key employee on the basis of more than one category. When listing key employees, list each employee only once.

1. Any officer with annual compensation more than \$185,000 (for 2021), as indexed annually:

| | |
|--|--|
| | |
| | |
| | |
| | |

2. Employees with more than 5% ownership:

| | |
|--|--|
| | |
| | |
| | |
| | |

3. Employees with more than 1% ownership and annual compensation greater than \$150,000:

| | |
|--|--|
| | |
| | |
| | |
| | |

Concentration Test

IRC Section 125 — Cafeteria Plan

25% Concentration IRC 125(b)(2) (All Plans)

(Company Name)

Plan Year Ended _____

Total nontaxable benefits paid to all participants who are
key employees _____(A)

Total nontaxable benefits paid to all other participants _____

Total nontaxable benefits paid _____(B)

Percent of nontaxable benefits paid to participants who are
key employees (A / B) _____(C)

Conclusion:

If (C) is greater than 25%, participants who are key employees will include in income any
“nontaxable benefits” received for the plan year.



STAFF REPORT

To: Board of Directors

Meeting Date: December 16, 2024

From: Dennis Cafferty, General Manager

Subject: MWD Reverse Cyclic Program

Metropolitan Water District (Metropolitan) has developed the Reverse Cyclic Program in an effort to address financial challenges stemming from fluctuating water demands and revenue needs. Due to the unique circumstances of budget challenges they are facing this fiscal year, Metropolitan adopted the current version of the Reverse-Cyclic Program (Program) on November 19, 2024. The Program generates immediate cash flow for Metropolitan which is critical to its current Biennial Budget revenue challenges.

The Program provides significant financial benefit to participating agencies. Metropolitan's rates for CY 2025 and CY 2026 have already been set. The CY 2025 treated water rate is 11% greater than the CY 2024 rate with a following 9.5% increase adopted for CY 2026. In addition, it is anticipated that further significant rate increases will be required in the next Metropolitan Biennial Budget. Pre-purchasing water at the current year's full-service rate, with deferred delivery, locks in the current rates for future deliveries, thereby mitigating the impact of the already approved rate increases as well as the impact of potential future rate increases.

Metropolitan has proposed a Program that will make up to 100,000 acre-feet of water available for pre-purchase in CY 2024 & CY 2025. It is anticipated that requests for participation in the Program may significantly exceed the 100,000 acre-feet of proposed pre-purchase supply. It is not yet clear how Metropolitan might resolve the potential oversubscription in the Program.

The Program will include the following general terms:

- Metropolitan will bill MWDOC the full-service water rate in effect at the time of purchase. MWDOC will subsequently bill participating agencies.
- Purchases incur the Metropolitan Readiness-to-Serve charge.
- Program deliveries will be deferred to a future year but will be made within 5 years from the date of purchase.
- Program deliveries are made at Metropolitan's sole discretion.
- No Capacity Charge will be applied to program deliveries.

- Reverse Cyclic Program deliveries will be prioritized to member agencies if there is a critical need.
- Metropolitan will include future member agency water deliveries under the program as allocated supply under the implementation of the Metropolitan Water Supply Allocation Plan.

The terms are defined in the attached draft agreement between Metropolitan and MWDOC. Should the District choose to participate, MWDOC has developed the attached draft letter agreement between MWDOC and participating agencies.

As noted above, there is significant financial benefit derived from participation in the Reverse Cyclic Program. Should Metropolitan deliver the water as soon as CY 2025 the return on investment would be 11%. The longer Metropolitan defers delivery, the greater the return on investment. These guaranteed returns significantly exceed the returns available from the District's typical investment vehicles.

Staff evaluated a participation level of 1,000 acre-feet. The required immediate payment amounts to \$1,256,000. Staff evaluated the District's current reserves position (\$21,583,190) as well as the required debt coverage ratios and determined the District can accommodate the payment necessary for participation in the Program. It should also be noted that the first installment of the MNWD Transfer Price payment, as defined in the recently approved and executed SOCWA agreements, will result in cash receipts by the District of approximately \$1,000,000 in early 2025. Similar payments will be made in early 2026 and 2027 further bolstering the District's ability to manage the reduction in reserves associated with the participation in the Reverse Cyclic Program.

Recommended Action:

Staff recommend that the Board 1) authorize the General Manager to request participation in the MWD Reverse Cyclic Program in the amount of up to 1,000 acre feet and at an investment cost of up to \$1,256,000 and 2) authorize the General Manager to execute an agreement with the Municipal Water District of Orange County to formalize the participation with MWDOC and reference the Master agreement with Metropolitan Water District.

Agreement No. A0-5328 Between
Metropolitan Water District of Southern California and the
Municipal Water District of Orange County for the Reverse Cyclic Program

This Reverse Cyclic Agreement (“Agreement”) is made as of December 1, 2024, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, and the MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (“MWDOC”), a public agency of the State of California (collectively, the “Parties”).

Section 1. The Parties

a. Metropolitan is a voluntary cooperative providing wholesale water services to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.

b. [MA TO FILL IN]

Section 2. Purpose of the Agreement

Through this Agreement, the Parties intend to provide for a means of deferment of Metropolitan deliveries of water purchased by MWDOC to a future year, pursuant to the Reverse Cyclic Program (“RCP”) approved by the Metropolitan Board of Directors on November 19, 2024.

Section 3. Purchase and Deferment of Deliveries

MWDOC agrees Metropolitan may defer deliveries in accordance with this Agreement and MWDOC agrees to pay for the deliveries in accordance with this Agreement. The amount and schedule of RCP purchases for deferred deliveries will be mutually agreed upon in writing prior to the purchase of said amount by MWDOC. RCP purchases will be made upon Metropolitan’s written request to all member agencies to participate in the RCP when it determines water is available and MWDOC’s written request to participate, followed by MWDOC’s written acceptance of the final agreed amount, which may be made pursuant to an email communication to avoid delay. A letter purchase agreement will be executed to confirm this transaction (“Letter Purchase Agreement”). See Appendix A for pre-purchase and delivery examples and Appendix B for an example of a tracking table.

All communications arranging purchases of deferred deliveries pursuant to this Agreement must reference this Agreement. In the event of a force majeure event or a circumstance that may result in a critical need, Metropolitan will prioritize deliveries to address the critical need.

Section 4. Service Rates for Purchases

In exchange for MWDOC agreeing to and accommodating Metropolitan's written request to defer deliveries, Metropolitan agrees to bill MWDOC the full-service water rate in effect and any applicable treatment charge at the time of the purchase. Purchases made under the RCP will be included in the determination of the MWDOC's Readiness-to-Serve Charge at the time of purchase. MWDOC's RCP purchase will also be considered as part of MWDOC's Revised-Base-Firm Demand for the year in which the RCP purchases are made. The deliveries will not be counted towards the determination of MWDOC's Capacity Charge at the time of purchase and deferral, nor at the time of delivery, because the deferred delivery of water will be made at Metropolitan's discretion.

Section 5. Determination of Amounts of Purchases to be Deferred

Metropolitan will determine and certify the amount available for the purchase of deferred deliveries. MWDOC's RCP purchases will be included as allocated supply under a Metropolitan Water Supply Allocation Plan implementation, or under any other allocation or shortage program that may be implemented.

Section 6. Schedule of Deferred Deliveries

Metropolitan will complete the deferred deliveries of water MWDOC purchased under the RCP no later than five full calendar years from the date of purchase, unless the Parties mutually agree to a different delivery schedule. When Metropolitan determines water is available, Metropolitan will make deliveries to MWDOC in an amount equivalent to the Metropolitan-requested deferment and purchased by MWDOC under the RCP. Deliveries will be negotiated based on the water resource and operational conditions for Metropolitan and MWDOC, but Metropolitan, at its discretion, shall determine when the water shall be delivered. Metropolitan will make deliveries to MWDOC if there is a critical need. During times when MWDOC is under a Metropolitan allocation, the allocation rules shall govern the provision of water for critical need during that time. Critical need water is subject to an allocation if MWDOC is under a Metropolitan allocation.

There shall be no losses assessed to the RPC balance, unless Metropolitan is unable to deliver the pre-purchased water within five years due to MWDOC's inability to receive the water, in which case Metropolitan shall assess losses at a rate of twenty (20) percent per year of the remaining delivery obligation.

Section 7. Indemnity Clause

Liability and indemnification shall be determined pursuant to section 4502 of the Metropolitan Administrative Code, as amended or renumbered over time. Metropolitan provides no warranty or guarantee regarding the quality or content of its water or the suitability of its use for replenishment of groundwater basins. MWDOC acknowledges that it is accepting water "as is."

Section 8. Term

This Agreement shall be effective as of the date and year listed at the beginning of the Agreement and through the end of the last delivery that is made, but all terms other than Section 6 must be completed and are no longer effective after December 31, 2025, coterminous with the term approved by the Metropolitan Board of Directors for the RCP.

Section 9. Termination

Metropolitan may cancel, terminate, or interrupt this Agreement during the effective term by providing 15 days' written notice to MWDOC. MWDOC, at its sole discretion, may cancel or terminate its participation in the RCP by providing 15 days' written notice to Metropolitan. Such termination or change by either party shall not interrupt the delivery deferments of water purchased prior to the termination or change. The provisions of Section 6 and Metropolitan's obligation to make deliveries under the Agreement shall remain until the completion of the last delivery obligation under this Agreement.

Section 10. Application of the Metropolitan Administrative Code

All provisions of the Metropolitan Administrative Code shall apply to deliveries made pursuant to this Agreement, in the same manner as other Metropolitan deliveries, unless specifically and expressly excluded in this Agreement.

Section 11. Billing Procedures

All rates and charges applicable to deliveries to MWDOC, outside of this Program, will apply, unless expressly excluded under this Agreement. Metropolitan will bill MWDOC for the final agreed amount of RCP purchases at the time of purchase and in accordance with the Letter Purchase Agreement, in the same manner as Metropolitan bills MWDOC for all other water sales. Metropolitan will bill MWDOC the full-service water rate and any applicable treatment charge in effect at the time of the purchase.

Section 12. Notices

Any notice required hereunder may be given by email or mail, postage prepaid, addressed as follows:

To: Municipal Water District of Orange County
P.O. Box 20895
Fountain Valley, CA 92728
Attention: General Manager
E-mail:

To: Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153
Attention: Brandon Goshi, Manager - Water Resource Management Group
E-mail: BGoshi@mwdh2o.com

Section 13. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

Section 14. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

Section 15. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals. The Parties agree that electronic signatures shall be considered original signatures for all purposes and shall have the same force and effect as original signatures.

Section 16. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

Section 17. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date and year listed at the beginning of the Agreement.

APPROVED AS TO FORM:

MUNICIPAL WATER DISTRICT OF
ORANGE COUNTY

By: _____
General Counsel

By: _____
Harvey De La Torre
General Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Marcia L. Scully
General Counsel

Deven Upadhyay
Interim General Manager

By: _____
Patricia Quilizapa
Senior Deputy General Counsel

By: _____
Brandon Goshi
Acting Manager
Water Resource Management

Date: _____

Date: _____

Appendix A

Reverse Cyclic Purchase and Delivery Example

The following purchase provisions apply:

- a. Metropolitan will make a written request to MWDOC that will identify the purchase amounts for delivery deferment.
- b. In agreement with Metropolitan's written request, MWDOC will make a purchase in CY 2024 or CY 2025 or both for deferred delivery.

The following deferred delivery provisions apply:

- a. Metropolitan will complete the deferred deliveries within five full calendar years from the date of purchase.
- b. Metropolitan at its sole discretion, shall determine when the water shall be delivered.

Water may be delivered if:

- i. Metropolitan, at its sole discretion, determines that it has supplies to deliver the RCP water.
 - ii. MWDOC has expressed a critical need for the deferred water, for example, the groundwater storage basin has reached low levels where wells are not operable or the basin reached emergency storage levels.
- c. If Metropolitan is unable to deliver the pre-purchased water within five years due to the member agency's inability to receive the water, then losses shall be applied to the delivery obligation under this Agreement at a rate of twenty (20) percent per year.
- d. Metropolitan will not apply any losses to the delivery obligation under this Agreement if the water is delivered within five years or if delivered after five years due to Metropolitan's inability to deliver the water within that time.
- e. The balance will be updated following each completed deferred delivery.

Purchase and Return, Example 1:

Scenario 1: Metropolitan makes a written request for MWDOC to defer 10 TAF in CY 2025. MWDOC purchases 10 TAF on December 1, 2025, for deferred delivery.

MWDOC does not express a critical need at any point during the agreement terms.

Purchases and Deferred Deliveries

| Year | Year Dates | Purchase Amount (AF) | Deferred Delivery Made (AF) | Balance (AF) | Notes |
|-------------|-------------------------|-----------------------------|------------------------------------|---------------------|---|
| 0 | 12/1/2025 | 10,000 | 0 | 10,000 | |
| 1 | 12/1/2025 to 11/30/2026 | 0 | 0 | 10,000 | |
| 2 | 12/1/2026 to 11/30/2027 | 0 | 0 | 10,000 | |
| 3 | 12/1/2027 to 11/30/2028 | 0 | -5,000 | 5,000 | Metropolitan determines it has supplies |
| 4 | 12/1/2028 to 11/30/2029 | 0 | -2,500 | 2,500 | Metropolitan determines it has supplies |
| 5 | 12/1/2029 to 11/30/2030 | 0 | -2,500 | 0 | Metropolitan determines it has supplies |

Purchase and Delivery, Example 2:

Scenario 2: Metropolitan makes a written request for MWDOC to defer 10 TAF. MWDOC purchases 10 TAF on December 1, 2025 for deferred delivery.

MWDOC expresses a critical need in year 2026.

Purchases and Deferred Deliveries

| Year | Year Dates | Purchase Amount (AF) | Deferred Delivery Made (AF) | Balance (AF) | Note |
|-------------|-------------------------|-----------------------------|------------------------------------|---------------------|---|
| 0 | 12/1/2025 | 10,000 | 0 | 10,000 | |
| 1 | 12/1/2025 to 11/30/2026 | 0 | -5,000 | 5,000 | Agency expresses critical need |
| 2 | 12/1/2026 to 11/30/2027 | 0 | 0 | 5,000 | |
| 3 | 12/1/2027 to 11/30/2028 | 0 | 0 | 5,000 | |
| 4 | 12/1/2028 to 11/30/2029 | 0 | -5,000 | 0 | Metropolitan determines it has supplies |
| 5 | 12/1/2029 to 11/30/2030 | 0 | 0 | 0 | |

Purchase and Delivery, Example 3:

Scenario 3: Metropolitan makes a written request for MWDOC to defer 10 TAF. MWDOC purchases 10 TAF on December 1, 2025 for deferred delivery

MWDOC is unable to receive all the RCP water within five years of the date of purchase. Metropolitan assesses a 20% loss per year on the remaining obligation until MWDOC accepts all the remaining RCP deliveries.

Purchases and Deferred Deliveries

| Year | Year Dates | Purchase Amount (AF) | Loss Applied (AF) | Deferred Delivery Made (AF) | Balance (AF) | Note |
|------|-------------------------|----------------------|----------------------------------|-----------------------------|--------------|---|
| 0 | 12/1/2025 | 10,000 | 0 | 0 | 10,000 | |
| 1 | 12/1/2025 to 11/30/2026 | 0 | 0 | 0 | 10,000 | MWDOC is unable to accept delivery of the remaining RCP balance |
| 2 | 12/1/2026 to 11/30/2027 | 0 | 0 | 0 | 10,000 | |
| 3 | 12/1/2027 to 11/30/2028 | 0 | 0 | 0 | 10,000 | |
| 4 | 12/1/2028 to 11/30/2029 | 0 | 0 | -5,000 | 5,000 | Metropolitan determines it has supplies |
| 5 | 12/1/2029 to 11/30/2030 | 0 | 0 | 0 | 5,000 | MWDOC is unable to accept delivery of the remaining RCP balance |
| 6 | 12/1/2030 to 11/30/2031 | 0 | $-(5,000 * 20\%)$ = -1,000 | -1,000 | 3,000 | A 20% loss is applied to the beginning balance |
| 7 | 12/1/2031 to 11/30/2032 | 0 | $-(3,000 * 20\%)$ = -600 | -2,400 | 0 | A 20% loss is applied to the beginning balance |

Appendix B

CY 2024 and CY 2025 Reverse Cyclic Tracking Table

Metropolitan-Requested Purchases for Deferred Delivery and Delivery of RCP Water

Purchases for Deferred Deliveries

| Year | Month | Total Purchase (AF) | Notes |
|-------------|--------------|----------------------------|--------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Deferred Deliveries Completed

| Year | Month | Total Delivered (AF) | Remaining Balance (AF) |
|-------------|--------------|-----------------------------|-------------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Notes:



Street Address:
18700 Ward Street
Fountain Valley, California 92708

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

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

Bob McVicker, P.E.
President

Jeffery M. Thomas
Vice President

Randall Crane, Ph.D.
Director

Larry D. Dick
Director

Al Nederhood
Director

Karl W. Seckel, P.E.
Director

Megan Yoo Schneider, P.E.
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

[Date]

[Member Agency Name]

[Address]

[City, State ZIP]

Re: Participation in MWDOC Reverse Cyclic Program

Dear [Member Agency Representative]:

This Letter Agreement ("Letter Agreement") is entered into by and between the Municipal Water District of Orange County ("MWDOC") and [Member Agency Name] ("Agency") regarding Agency's participation in the Metropolitan Water District of Southern California ("Metropolitan") Reverse Cyclic Program ("RCP").

MWDOC entered into agreement No. A0-5328 Metropolitan ("Master Agreement") to participate in the RCP, which allows for Metropolitan Member Agencies to pre-purchase Metropolitan water at the current full-service rate for deferred delivery in a future year. The purpose of this Letter Agreement is to confirm Agency's formal request for MWDOC to participate in the RCP on behalf of Agency and to confirm that Agency will pay MWDOC for all costs incurred by MWDOC related to Agency's participation as further described below.

The Agency desires to participate in the RCP through MWDOC's Master Agreement as follows:

1. Agency agrees to participate in the RCP subject to all terms and conditions of the Master Agreement between MWDOC and Metropolitan.
2. Agency agrees to pay MWDOC for all costs incurred by MWDOC on Agency's behalf related to the RCP, including but not limited to water purchases, applicable rates, charges, and any other costs associated with Agency's participation in the RCP.
3. All payments shall be made in accordance with MWDOC's existing terms for billing and payments.
4. Agency and MWDOC shall coordinate on RCP purchases through written requests. All communications regarding RCP purchases must reference this Letter Agreement and the Master Agreement.
5. This Letter Agreement shall be effective upon execution and shall terminate concurrent with the Master Agreement.

If the foregoing terms are acceptable, please indicate your agreement by signing below and returning one fully executed copy to MWDOC.

Municipal Water District of Orange County

By: _____ Harvey De La Torre General Manager

Date: _____

AGREED AND ACCEPTED:

[Member Agency Name]

By: _____ [Name] [Title]

Date: _____



STAFF REPORT

To: Board of Directors

Meeting Date: December 16, 2024

From: Vishav Sharma, Chief Financial Officer

Subject: November 2024 bills for Approval and Monthly Financial Report

Attached for Board approval is the payment summary report for the month of November, 2024 which presents checks that were paid during the month that exceeded \$50,000 in value. Also attached is the monthly financial report for period ending November 30, 2024.

Presented below for your consideration are some notes about the financial report:

- The Statement of Net Position Decreased in October compared to the month of September as the District's Liabilities increased more as compared to the District's Assets. The District's Construction in progress account balance increased while accounts receivables and cash & investments balance decreased. On the liabilities side, accounts payable and accrued interest payable account balance grew. The District also incurred construction and water purchase expenses during the month of October. These activities affected the assets and liabilities of the District. Please note that this report contains preliminary numbers.
- The Statement of Revenues, Expenses, and Changes in Net Position indicates the District currently has a year to date positive Change in Net Position of \$2,055,823 at the end of November.
- The Cash and Investments report shows that the District has a total balance of \$21680,810 in cash and cash equivalents at the end of November 2024. Out of this \$97,620 are restricted for certain capital projects.
- The total disbursement including payroll expense for the month of November 2024 is \$3,731,210.85. These disbursements include eleven checks greater than \$50,000, with the total equal to \$2,216,911.29. These expenses exceed the General Manager's signing authority and Staff recommends the Board approve these checks. Payroll expenses of \$931,999.08 occurred during the month. District employees were reimbursed \$3,426.50 for travel, education, meals, supplies and certification related expenses; and Directors were reimbursed \$66.00 in travel expenses.

Attachment 1

Payment Summary for the Month ending November 30, 2024

EL TORO WATER DISTRICT
Payment Summary
For the month ending November 30, 2024

| CHECK NUMBER | PAYMENT DATE | VENDOR NAME | PAYMENT AMOUNT |
|-----------------|-----------------|---|-------------------|
| 12103 | 11/08/2024 | Municipal Water District of Orange County | 404,972.64 |
| 12108 | 11/08/2024 | South Orange County Wastewater Authority | 356,898.84 |
| 12137 | 11/19/2024 | Moulton Niguel Water District | 335,545.86 |
| 12219 | 11/27/2024 | Moulton Niguel Water District | 235,408.25 |
| 12199 | 11/27/2024 | ACWA JPIA | 229,104.09 |
| 12116 | 11/14/2024 | Southern California Edison Company | 151,049.28 |
| 12154 | 11/21/2024 | ACWA JPIA | 139,766.86 |
| 12098 | 11/08/2024 | Kingmen Construction, Inc. | 92,162.02 |
| 12134 | 11/19/2024 | Illinois Tool Works Inc | 91,694.62 |
| 12179 | 11/21/2024 | Municipal Water District of Orange County | 91,343.64 |
| 12206 | 11/27/2024 | Convergint Technologies, LLC | 88,965.19 |

TOTAL CHECKS OVER \$50,000 \$ 2,216,911.29

TOTAL CHECKS IN REGISTER \$ 2,786,449.41

DEBIT TRANSFERS

| | | |
|------------|-------------------------------|------------|
| 11/01/2024 | PAYROLL DIRECT DEPOSIT | 171,332.85 |
| 11/01/2024 | FEDERAL DEPOSIT LIABILITY | 35,299.73 |
| 11/01/2024 | SDI & STATE TAX | 15,446.89 |
| 11/01/2024 | WAGE GARNISHMENTS | 190.00 |
| 11/01/2024 | EMPOWER (401K) | 59,150.23 |
| 11/01/2024 | EMPOWER (457) | 19,490.45 |
| 11/01/2024 | HEALTH SAVINGS ACCOUNT | 246.15 |
| 11/15/2024 | PAYROLL BOARD OF DIRECTOR | 5,796.71 |
| 11/15/2024 | SS, MEDICARE, SDI & STATE TAX | 1,169.46 |
| 11/15/2024 | EMPOWER (457) | 2,572.15 |
| 11/15/2024 | HEALTH SAVINGS ACCOUNT | - |
| 11/15/2024 | PAYROLL DIRECT DEPOSIT | 172,269.44 |
| 11/15/2024 | FEDERAL DEPOSIT LIABILITY | 35,733.00 |
| 11/15/2024 | SDI & STATE TAX | 15,583.59 |
| 11/15/2024 | WAGE GARNISHMENTS | 190.00 |
| 11/15/2024 | EMPOWER (401K) | 58,932.54 |
| 11/15/2024 | EMPOWER (457) | 20,184.19 |
| 11/15/2024 | HEALTH SAVINGS ACCOUNT | 246.15 |
| 11/29/2024 | PAYROLL DIRECT DEPOSIT | 181,969.19 |
| 11/29/2024 | FEDERAL DEPOSIT LIABILITY | 38,040.37 |
| 11/29/2024 | SDI & STATE TAX | 16,750.55 |
| 11/29/2024 | EMPOWER (401K) | 60,800.81 |
| 11/29/2024 | EMPOWER (457) | 20,358.48 |
| 11/29/2024 | HEALTH SAVINGS ACCOUNT | 246.15 |
| | Total Payroll Expense | 931,999.08 |
| 11/30/2024 | BANK FEES | 12,762.36 |

TOTAL INTERBANK WIRES / DEBIT TRANSFERS \$ 944,761.44

TOTAL DISBURSEMENTS \$ 3,731,210.85

REIMBURSEMENTS TO ETWD EMPLOYEES

| CHECK NUMBER | PAYMENT DATE | PAYEE (DESCRIPTION) | PAYMENT AMOUNT |
|-----------------|-----------------|--|-------------------|
| 12153 | 11/19/2024 | Vishav Sharma (Springbrook Conference) | 1,109.32 |
| 12120 | 11/19/2024 | Abel Estrada (Springbrook Conference) | 1,068.27 |
| 12086 | 11/08/2024 | Cheyne Madero (Water Treatment Exam) | 608.98 |
| 12196 | 11/22/2024 | Sherri Seitz (Facebook Advertisement) | 214.28 |
| 12101 | 11/08/2024 | Marisol Melendez (CSDA Board Secretary Conference) | 136.29 |
| 12176 | 11/21/2024 | Judy Wilson (Springbrook Conference) | 112.07 |
| 12147 | 11/19/2024 | Steve Hancock (Grade D4 Renewal) | 105.00 |
| 12124 | 11/19/2024 | Cheyne Madero 9Grade T2 Renewal) | 60.00 |
| 12095 | 11/08/2024 | Garth Botha (Disaster Expo Lunch) | 12.29 |

TOTAL CHECKS TO EMPLOYEES \$ 3,426.50

REINBURSEMENTS TO ETWD DIRECTORS

| CHECK NUMBER | PAYMENT DATE | PAYEE (DESCRIPTION) | PAYMENT AMOUNT |
|-----------------|-----------------|-----------------------------------|-------------------|
| 12097 | 11/08/2024 | Kathryn Freshley (Travel Expense) | 45.36 |
| 12102 | 11/08/2024 | Michael Gaskins (Travel Expense) | 20.64 |

TOTAL CHECKS TO DIRECTORS \$ 66.00

Attachment 2

Statement of Net Position for the November 30, 2024

El Toro Water District
Interim Statement of Net Position for the Month of November, 2024

| | 6/30/2023 Interim | 10/31/2024 Interim | 11/30/2024 Interim | Change |
|--|----------------------|-----------------------|-----------------------|--------------------|
| Assets | | | | |
| Current Assets | | | | |
| Cash & Cash Equivalents | 10,138,838 | 15,186,655 | 14,120,353 | (1,066,302) |
| Investments | 16,688,703 | 7,650,163 | 7,560,377 | (89,786) |
| Accounts Receivable | 6,144,813 | 6,788,534 | 6,439,449 | (349,085) |
| Materials & Supply Inventory | 260,700 | 699,929 | 694,365 | (5,564) |
| Prepaid Expenses | 200,587 | 444,283 | 806,457 | 362,174 |
| Restricted - Cash & Cash Equivalents | 4,386,674 | 80 | 81 | 0 |
| Current Assets - Sub-total | 37,820,315 | 30,769,644 | 29,621,081 | (1,148,563) |
| Non-Current Assets | | | | |
| Lease Receivable | 361,011 | 168,271 | 168,271 | - |
| Land & Easements | 7,451,585 | 7,451,585 | 7,451,585 | - |
| Capacity Rights | 342,382 | 342,382 | 342,382 | - |
| Capital Assets | | | | |
| Water System | 37,781,450 | 61,492,512 | 61,492,512 | - |
| Wastewater System | 57,334,500 | 61,524,968 | 61,524,968 | - |
| Recycled System | 55,454,389 | 55,454,389 | 55,454,389 | - |
| Combined Assets | 15,919,853 | 15,905,406 | 15,905,406 | - |
| Construction in Progress | 24,581,587 | 6,274,448 | 6,637,922 | 363,474 |
| Accumulated Depreciation | (92,651,512) | (98,363,790) | (98,773,901) | (410,111) |
| Non-Current Assets - Sub-total | 106,575,244 | 110,250,171 | 110,203,534 | (46,637) |
| Total Assets | 144,395,559 | 141,019,815 | 139,824,615 | (1,195,200) |
| Deferred Outflows of Resources | | | | |
| OPEB Deferred Outflow of Resources | 3,493,769 | 2,480,241 | 2,480,241 | - |
| Liabilities | | | | |
| Current Liabilities | | | | |
| Accounts Payable & Accrued Expenses | 4,797,270 | 1,288,664 | 1,270,158 | (18,506) |
| Accrued Salaries & Related Payables | 150,618 | 152,366 | 153,106 | 740 |
| Customer Deposits | 49,231 | 19,550 | 15,550 | (4,000) |
| Accrued Interest Payable | 162,721 | 852,804 | 84,937 | (767,867) |
| Long Term Liabilities - Due in One Year | | | | - |
| Compensated Absences | 182,171 | 236,316 | 236,316 | - |
| Loans Payable | 1,846,288 | 1,924,372 | 1,924,372 | - |
| Current Liabilities - Sub-total | 7,188,299 | 4,474,071 | 3,684,438 | (789,633) |
| Non-Current Liabilities | | | | |
| Compensated Absences | 1,431,790 | 1,456,919 | 1,456,919 | - |
| Other Post-Employment Benefits Liability | 11,050,192 | 11,256,633 | 11,256,633 | - |
| Loans Payable | 53,316,865 | 50,662,915 | 50,618,536 | (44,379) |
| Non-Current Liabilities - Sub-total | 65,798,847 | 63,376,467 | 63,332,088 | (44,379) |
| Total Liabilities | 72,987,146 | 67,850,538 | 67,016,526 | (834,013) |
| Deferred Inflows of Resources | | | | |
| Deferred Amounts from Leases | 583,336 | 336,495 | 336,495 | - |
| Deferred Amounts from OPEB | 9,124,466 | 7,701,632 | 7,701,632 | - |
| Total Deferred Inflows of Resources | 9,707,802 | 8,038,127 | 8,038,127 | - |
| Net Position | | | | |
| Net Investment in Capital Assets | 56,533,904 | 57,662,884 | 57,660,626 | (2,258) |
| Restricted - Capital Projects | 2,895 | 2,895 | 2,895 | - |
| Restricted - Debt Service | - | - | - | - |
| Unrestricted | 8,657,581 | 9,945,612 | 9,586,683 | (358,930) |
| Total Net Position | 65,194,380 | 67,611,391 | 67,250,203 | (361,187) |

Attachment 3

Statement of Revenues, Expenses, and Changes in Net Position
for November 30, 2024

Statement of Revenues, Expenses, and Changes in Net Position for the Month of November, 2024

| | District | | Water System | | Wastewater System | | Recycled System | | Capital Improvments | |
|--|---------------|---------------|---------------|--------------|-------------------|-----------|-----------------|--------------|---------------------|-----------|
| | Budget | Actual | Budget | Actual | Budget | Actual | Budget | Actual | Budget | Actual |
| Operating Revenues | | | | | | | | | | |
| Commodity Supply Charges | \$ 12,336,195 | \$ 6,565,022 | \$ 10,710,144 | \$ 5,253,196 | \$ - | \$ - | \$ 1,626,051 | \$ 1,311,826 | \$ - | \$ - |
| Service Provision Charges | 15,020,423 | 6,323,848 | 4,870,491 | 2,015,975 | 9,684,429 | 4,113,298 | 465,503 | 194,574 | - | - |
| Capital Facilities Charge | 5,009,153 | 2,092,421 | - | - | - | - | - | - | 5,009,153 | 2,092,421 |
| Charges for Services | 125,000 | - | 125,000 | - | - | - | - | - | - | - |
| Miscellaneous Operating Income | 45,900 | (18,101) | 31,000 | 33,044 | 14,900 | (51,145) | - | - | - | - |
| Grants, Rebates, Reimbursements | 281,125 | 238,807 | - | 1,495 | 5,300 | 10,431 | 275,825 | 220,678 | - | 6,203 |
| Total Operating Revenues | 32,817,795 | 15,201,997 | 15,736,635 | 7,303,711 | 9,704,629 | 4,072,584 | 2,367,379 | 1,727,078 | 5,009,153 | 2,098,624 |
| Operating Expenses | | | | | | | | | | |
| General & Administrative | 5,729,652 | 2,147,929 | 2,293,818 | 956,597 | 2,977,629 | 1,033,069 | 458,205 | 158,264 | - | - |
| Operations & Maintenance | 22,916,785 | 9,218,795 | 13,849,372 | 5,412,118 | 7,170,785 | 2,950,319 | 1,561,603 | 739,878 | 335,026 | 116,479 |
| Operating Capital Expenses | 335,026 | - | - | - | - | - | - | - | 335,026 | - |
| Other Operating Expenses | 350,000 | 161,287 | 140,000 | 64,515 | 182,000 | 83,869 | 28,000 | 12,903 | - | - |
| Depreciation & Amortization | 4,906,900 | 2,050,083 | - | - | - | - | - | - | 4,906,900 | 2,050,083 |
| Total Operating Expenses | 34,238,363 | 13,578,094 | 16,283,190 | 6,433,230 | 10,330,414 | 4,067,258 | 2,047,808 | 911,045 | 5,576,952 | 2,166,562 |
| Operating Income/(Loss) | (1,420,568) | 1,623,903 | (546,555) | 870,481 | (625,785) | 5,327 | 319,571 | 816,033 | (567,799) | (67,938) |
| Non-operating Revenues | | | | | | | | | | |
| Property Taxes | 1,320,800 | 550,333 | 528,320 | 220,133 | 686,816 | 286,173 | 105,664 | 44,027 | - | - |
| Investment Earnings | 550,000 | 412,566 | 275,000 | 179,286 | 275,000 | 231,453 | - | 1,824 | - | 4 |
| Miscellaneous Revenue | 306,400 | 109,080 | 296,000 | 107,757 | 10,400 | 1,258 | - | 65 | - | - |
| Interest Expense | (2,107,805) | (647,895) | - | - | - | - | - | - | (2,107,805) | (647,895) |
| Net Non-Operating Revenues | 69,395 | 424,085 | 1,099,320 | 507,177 | 972,216 | 518,884 | 105,664 | 45,916 | (2,107,805) | (647,891) |
| Income/(Loss) before Contributions & Transfers | (1,351,173) | 2,047,988 | 552,765 | 1,377,658 | 346,431 | 524,210 | 425,235 | 861,948 | (2,675,604) | (715,829) |
| Transfers | | | | | | | | | | |
| Transfers In | 1,879,100 | 782,958 | - | - | - | - | - | - | 1,879,100 | 782,958 |
| Transfers Out | (1,879,100) | (782,958) | (881,880) | (367,450) | - | - | (997,220) | (415,508) | - | - |
| Net Transfers | - | - | (881,880) | (367,450) | - | - | (997,220) | (415,508) | 1,879,100 | 782,958 |
| Capital Contributions | | | | | | | | | | |
| Donations & Contributions | - | 7,835 | - | 1,916 | - | 1,861 | - | - | - | 4,058 |
| Total Capital Contributions | - | 7,835 | - | 1,916 | - | 1,861 | - | - | - | 4,058 |
| Change in Net Position | (1,351,173) | 2,055,823 | (329,115) | 1,012,124 | 346,431 | 526,071 | (571,985) | 446,440 | (796,504) | 71,188 |
| Beginning Net Position | 65,194,380 | 65,194,380 | | | | | | | | |
| Ending Net Position | \$ 63,843,207 | \$ 67,250,203 | | | | | | | | |

Attachment 4

Summary of Revenues and Expenses for the November 30, 2024

Summary of Revenues and Expenses for the Month of November, 2024

| Account - Description | Month Actual | YTD Actual | 2024-2025 Budgeted | Budget Remaining | % of Budget Earned/Spend |
|--|-----------------|---------------|-----------------------|---------------------|--------------------------------|
| Summary of Total District Revenues | | | | | |
| District Totals | | | | | |
| Commodity Supply Charges | 1,157,065 | 6,565,022 | 12,336,195 | 5,771,173 | 53.2% |
| Service Charges | 1,269,102 | 6,323,848 | 15,020,423 | 8,696,575 | 42.1% |
| Capital Facility Charges | 432,710 | 2,092,421 | 5,009,153 | 2,916,732 | 41.8% |
| Charges for Services | - | - | 125,000 | 125,000 | 0.0% |
| Miscellaneous Revenue | 37,086 | 90,979 | 357,600 | 266,621 | 25.4% |
| Grants, Rebates, Reimbursements | 54,098 | 238,807 | 275,825 | 37,018 | 86.6% |
| Property Taxes | 110,067 | 550,333 | 1,320,800 | 770,467 | 41.7% |
| Investment Income | 66,059 | 412,566 | 550,000 | 137,434 | 75.0% |
| Donations & Capital Contributions | - | 7,835 | - | (7,835) | N/A |
| Total Revenue | 3,126,186 | 16,281,811 | 34,994,995 | 18,713,184 | 46.5% |
| Summary of Total District Expenses | | | | | |
| Salary Expenses | | | | | |
| Directors Fees | 10,074 | 48,399 | 131,400 | 83,001 | 36.8% |
| Exempt Salaries | 171,598 | 659,795 | 1,344,300 | 684,505 | 49.1% |
| Non-exempt Salaries | 573,958 | 2,201,067 | 5,375,400 | 3,174,333 | 40.9% |
| Other Salary Payments | - | - | 218,600 | 218,600 | 0.0% |
| Overtime | 46,409 | 171,010 | 285,000 | 113,990 | 60.0% |
| Overtime - On-call | 10,080 | 36,960 | 87,300 | 50,340 | 42.3% |
| Stipends/Allowances | 6,521 | 23,912 | 104,297 | 80,385 | 22.9% |
| Employee Service Awards | - | 1,050 | 700 | (350) | 150.0% |
| Salary Expenses Sub-total | 818,641 | 3,142,192 | 7,546,997 | 4,404,805 | 41.6% |
| Benefit Expenses | | | | | |
| Medical Insurance | 92,416 | 557,283 | 1,133,800 | 576,517 | 49.2% |
| HSA Contributions | - | - | 19,400 | 19,400 | 0.0% |
| Dental Insurance | 7,933 | 47,629 | 85,400 | 37,771 | 55.8% |
| Vision Insurance | 1,084 | 6,454 | 12,600 | 6,146 | 51.2% |
| Life Insurance | 3,281 | 19,510 | 39,500 | 19,990 | 49.4% |
| Disability Insurance | 4,050 | 23,896 | 41,300 | 17,404 | 57.9% |
| Long-term Care Insurance | 760 | 3,493 | 25,800 | 22,307 | 13.5% |
| Workers Compensation Insurance | 10,823 | 64,606 | 162,198 | 97,592 | 39.8% |
| State Unemployment Insurance | - | - | 3,000 | 3,000 | 0.0% |
| 401k Retirement Contributions | 72,011 | 276,636 | 645,600 | 368,964 | 42.8% |
| 401k Matching Contributions | 47,702 | 186,240 | 276,200 | 89,960 | 67.4% |
| 457b Matching Contributions | 8,509 | 30,844 | 263,300 | 232,456 | 11.7% |
| Medicare Insurance | 11,302 | 43,299 | 110,200 | 66,901 | 39.3% |
| FICA | 795 | 2,623 | 9,600 | 6,977 | 27.3% |
| Benefit Expenses Sub-total | 260,667 | 1,262,514 | 2,827,898 | 1,565,384 | 44.6% |
| Commodity Purchased for Resale | | | | | |
| Water Purchases - MWDOC | 164,574 | 777,087 | 4,503,475 | 3,726,388 | 17.3% |
| Water Purchases - MWDOC Fixed | 69,808 | 346,167 | 940,169 | 594,002 | 36.8% |
| Water Purchases - AMP/SAC | 2,426 | 12,847 | 33,725 | 20,878 | 38.1% |
| Regional Water Supply Expenses | 509 | 2,545 | 8,000 | 5,455 | 31.8% |
| Water Purchases - Baker WTP | 235,762 | 1,245,849 | 3,176,250 | 1,930,401 | 39.2% |
| Water Purchases - Baker O&M | 8,594 | 8,594 | 1,054,350 | 1,045,756 | 0.8% |
| Water Purch - Other Agencies | 570,757 | 1,359,799 | - | (1,359,799) | N/A |
| MWDOC Service Connect Charge | 11,694 | 46,777 | 140,500 | 93,723 | 33.3% |
| Commodity Purchased for Resale Sub-total | 1,064,123 | 3,799,664 | 9,856,469 | 6,056,805 | 38.5% |

Summary of Revenues and Expenses for the Month of November, 2024

| Account - Description | Month Actual | YTD Actual | 2024-2025 Budgeted | Budget Remaining | % of Budget Earned/Spend |
|---|-----------------|---------------|-----------------------|---------------------|--------------------------------|
| Contracted/Purchased Services | | | | | |
| Consultants | 47,897 | 67,236 | 116,939 | 49,704 | 57.5% |
| Engineering Services | 1,169 | 3,774 | 40,000 | 36,226 | 9.4% |
| Audit & Accounting Services | 7,195 | 17,243 | 49,300 | 32,058 | 35.0% |
| Technology Consultants | 4,304 | 9,021 | 32,000 | 22,979 | 28.2% |
| SOCWA Contract | 98,604 | 397,416 | 1,200,000 | 802,584 | 33.1% |
| Contractors | 46,345 | 91,309 | 312,800 | 221,491 | 29.2% |
| Contracted Employees | - | - | 9,000 | 9,000 | 0.0% |
| Legal Svcs - General Counsel | 12,056 | 40,759 | 90,000 | 49,241 | 45.3% |
| Legal Svcs - Specialty Counsel | - | 140 | 26,600 | 26,460 | 0.5% |
| Other Legal Services | 49 | 373 | - | (373) | N/A |
| Employee Recruitmnt/Compliance | 242 | 2,232 | 3,000 | 768 | 74.4% |
| Employee Health & Wellness | 1,114 | 6,000 | - | (6,000) | N/A |
| Employee Relations Expenses | 381 | 585 | 2,400 | 1,815 | 24.4% |
| Professional Services | - | - | - | - | N/A |
| Landscaping Services | 28,142 | 57,469 | 145,946 | 88,477 | 39.4% |
| Janitorial Contracts | 10,587 | 21,273 | 45,000 | 23,727 | 47.3% |
| Equipment Rental | 1,064 | 25,467 | 15,000 | (10,467) | 169.8% |
| Uniform Rental | 5,876 | 9,602 | 16,700 | 7,098 | 57.5% |
| Laboratory Services | 8,822 | 12,541 | 23,400 | 10,859 | 53.6% |
| Disposal Services | 11,495 | 36,931 | 59,000 | 22,069 | 62.6% |
| Security Services | - | 6,718 | 80,431 | 73,712 | 8.4% |
| Insurance | 31,446 | 159,194 | 441,722 | 282,528 | 36.0% |
| Financial Service Fees | 10,375 | 32,179 | 33,500 | 1,321 | 96.1% |
| Printing & Reproduction | 495 | 14,731 | 28,750 | 14,019 | 51.2% |
| Advertising & Publicity Svcs | 589 | 589 | 8,800 | 8,211 | 6.7% |
| Postage | - | - | 10,400 | 10,400 | 0.0% |
| Public Relations/Education | 5,940 | 13,251 | 69,000 | 55,750 | 19.2% |
| Water Efficiency Services | 22,270 | 22,960 | 72,000 | 49,040 | 31.9% |
| Licenses & Permits | 20,232 | 104,260 | 245,660 | 141,400 | 42.4% |
| Software Maintenance/Licenses | 15,685 | 31,837 | 322,125 | 290,288 | 9.9% |
| Electrical Power | 127,620 | 1,069,369 | 2,022,580 | 953,211 | 52.9% |
| Natural Gas | 209 | 561 | 4,500 | 3,939 | 12.5% |
| Cable Service | 1,157 | 4,469 | - | (4,469) | N/A |
| Telecommunications | 2,831 | 10,481 | 10,000 | (481) | 104.8% |
| Mobile Telecommunications | 3,644 | 14,800 | 48,000 | 33,200 | 30.8% |
| Data Access | 5,089 | 21,721 | 60,000 | 38,279 | 36.2% |
| Equipment Maintenance & Repair | 30,956 | 109,466 | 175,550 | 66,084 | 62.4% |
| Pump Maintenance & Repair | - | 34 | 49,300 | 49,266 | 0.1% |
| Motor Maintenance & Repair | 20,632 | 31,188 | 120,400 | 89,212 | 25.9% |
| Electrical Maintenance/Repair | 5,211 | 14,489 | 110,000 | 95,511 | 13.2% |
| Meter Maintenance & Repair | - | 2,873 | 39,600 | 36,727 | 7.3% |
| Structure Maintenance & Repair | 1,030 | 11,368 | 34,300 | 22,932 | 33.1% |
| Asphalt Maintenance & Repair | 11,995 | 38,812 | 176,400 | 137,588 | 22.0% |
| Contracted/Purchased Services Sub-total | 602,747 | 2,514,719 | 6,350,103 | 3,835,384 | 39.6% |
| Commodities | | | | | |
| Repair Parts & Materials | 60,180 | 136,951 | 466,400 | 329,449 | 29.4% |
| Tools & Small Equipment | 2,112 | 18,976 | 89,145 | 70,169 | 21.3% |
| Safety Equipment | 140 | 1,574 | 22,600 | 21,026 | 7.0% |
| Employee Tools/Safety Equip | 910 | 6,465 | 23,200 | 16,735 | 27.9% |
| Laboratory Tools & Small Equip | - | - | 20,000 | 20,000 | 0.0% |
| Technology Tools/Small Equip | 5,332 | 16,330 | 8,000 | (8,330) | 204.1% |
| Chemicals | 30,816 | 175,681 | 314,200 | 138,519 | 55.9% |
| Laboratory Chemicals | 1,079 | 8,414 | 41,000 | 32,586 | 20.5% |
| Gasoline & Oil | - | 39,472 | 140,000 | 100,528 | 28.2% |
| Operating Supplies/Accessories | 3,685 | 13,119 | 73,450 | 60,331 | 17.9% |
| Office Supplies & Accessories | 478 | 4,420 | 30,700 | 26,280 | 14.4% |
| Technology Supplies/Components | 987 | 2,916 | 32,000 | 29,084 | 9.1% |
| Lab Supplies & Accessories | 1,773 | 4,381 | 20,500 | 16,119 | 21.4% |
| Meeting/Event Supplies & Food | 2,300 | 8,028 | 36,500 | 28,472 | 22.0% |
| Water Use Efficiency Supplies | 1,750 | 6,796 | 15,000 | 8,204 | 45.3% |
| Commodities Sub-total | 111,540 | 443,524 | 1,332,695 | 889,171 | 33.3% |

Summary of Revenues and Expenses for the Month of November, 2024

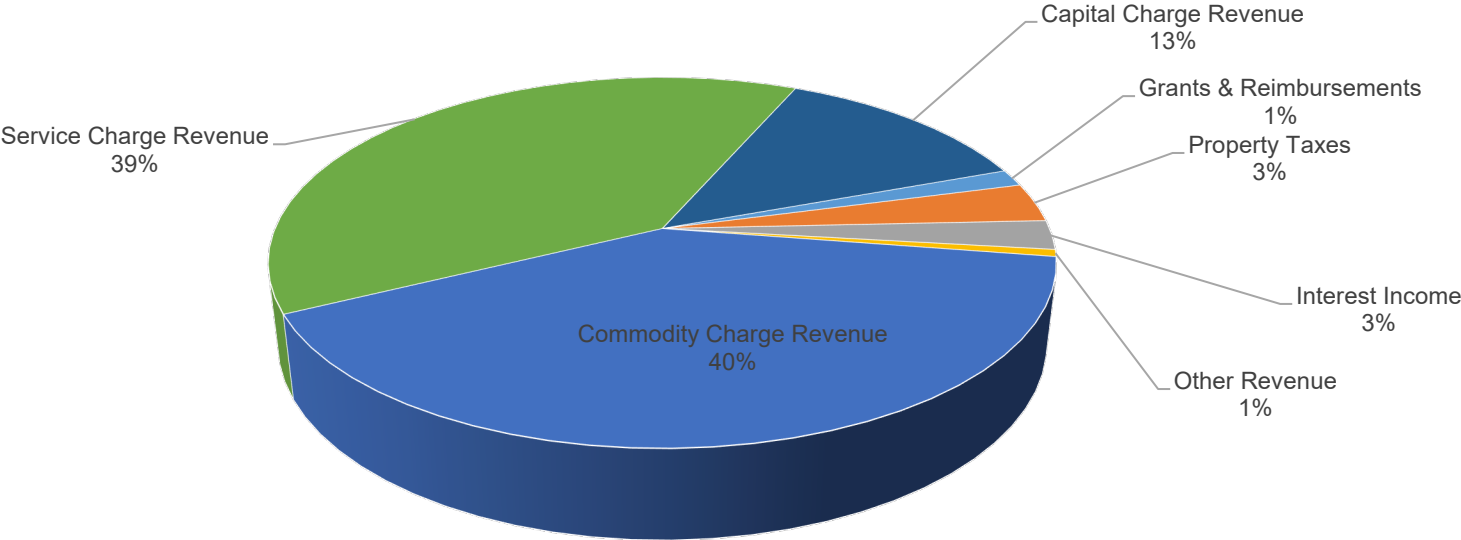
| Account - Description | Month Actual | YTD Actual | 2024-2025 Budgeted | Budget Remaining | % of Budget Earned/Spend |
|--|-----------------|---------------|-----------------------|---------------------|--------------------------------|
| Professional Development | | | | | |
| Education & Training | 2,762 | 10,819 | 79,390 | 68,571 | 13.6% |
| Education/Training - Directors | - | - | - | - | N/A |
| Licenses & Certifications | - | 60 | 3,560 | 3,500 | 1.7% |
| Dues & Memberships | 13,478 | 36,050 | 125,650 | 89,600 | 28.7% |
| Dues & Memberships - Directors | - | - | - | - | N/A |
| Meetings & Conferences | - | 8,583 | 27,900 | 19,317 | 30.8% |
| Meetings/Conferences-Directors | 290 | 7,980 | 11,000 | 3,020 | 72.5% |
| Travel Reimbursement | 2,347 | 8,654 | 39,400 | 30,746 | 22.0% |
| Travel Reimbursement-Directors | 66 | 7,840 | 35,000 | 27,160 | 22.4% |
| Publications & Subscriptions | 20 | 1,372 | 2,550 | 1,178 | 53.8% |
| Professional Development Sub-total | 18,962 | 81,359 | 324,450 | 243,091 | 25.1% |
| Miscellaneous Expenses | | | | | |
| Employee Appreciation Expenses | - | - | 500 | 500 | 0.0% |
| Internal/External Event Expenses | - | - | 4,500 | 4,500 | 0.0% |
| Election Expense | - | - | 40,000 | 40,000 | 0.0% |
| Reimbursable Repair Expense | - | - | - | - | N/A |
| Property Taxes | - | 2,510 | 5,096 | 2,586 | 49.2% |
| Uncollectible Accounts | - | (247) | 19,500 | 19,747 | -1.3% |
| NSFs & Miscellaneous Fees | - | - | 100 | 100 | 0.0% |
| Refund Overcharges | 1,809 | 4,010 | 3,104 | (906) | 129.2% |
| Damage/Repair Reimbursements | - | - | - | - | N/A |
| Miscellaneous Sub-total | 1,809 | 6,273 | 72,800 | 66,527 | 8.6% |
| Sub Total - General and O&M Expenses | 2,878,489 | 11,250,245 | 28,311,411 | 17,061,166 | 39.7% |
| Capital Improvement Expenses | | | | | |
| Water System Projects | | | | | |
| Supply/Storage Projects | - | - | 27,618 | 27,618 | 0.0% |
| Pumping Projects | - | - | - | - | N/A |
| Main/Service Line Projects | - | - | 122,408 | 122,408 | 0.0% |
| Wastewater System Projects | - | - | - | - | N/A |
| Pumping Projects | - | - | 10,000 | 10,000 | 0.0% |
| Wastewater Treatment Projects | 767 | 6,377 | 15,000 | 8,623 | 42.5% |
| Main/Service Line Projects | - | - | - | - | N/A |
| Recycled System Projects | - | - | - | - | N/A |
| Pumping Projects | - | - | - | - | N/A |
| Tertiary Treatment Projects | - | - | - | - | N/A |
| Main/Service Line Projects | - | - | - | - | N/A |
| General Projects | - | - | - | - | N/A |
| Operating Equipment Purchases | - | - | - | - | N/A |
| Vehicle & Related Equipment Purchases | - | - | - | - | N/A |
| Technoloy Projects & Purchases | 5,185 | 37,510 | 40,000 | 2,490 | 93.8% |
| Building & Structure Improvements | - | 9,558 | - | (9,558) | N/A |
| General Capital Projects | 35,939 | 63,034 | 120,000 | 56,966 | 52.5% |
| Construction in Progress | - | - | - | - | N/A |
| Capital Improvement Expenses Sub-total | 41,891 | 116,479 | 335,026 | 218,547 | 34.8% |
| Other Expenses | | | | | |
| Retiree Health Insurance | 26,943 | 161,287 | 350,000 | 188,713 | 46.1% |
| Depreciation | 410,111 | 2,050,083 | 4,906,900 | 2,856,817 | 41.8% |
| Debt Interest Expense | 129,579 | 647,895 | 2,107,805 | 1,459,910 | 30.7% |
| Other Expenses Sub-total | 566,633 | 2,859,265 | 7,364,705 | 4,505,440 | 38.8% |
| Total Expenses | 3,487,013 | 14,225,988 | 36,011,142 | 21,785,154 | 39.5% |
| Change in Net Position | (360,827) | 2,055,823 | (1,016,147) | | |

Attachment 5

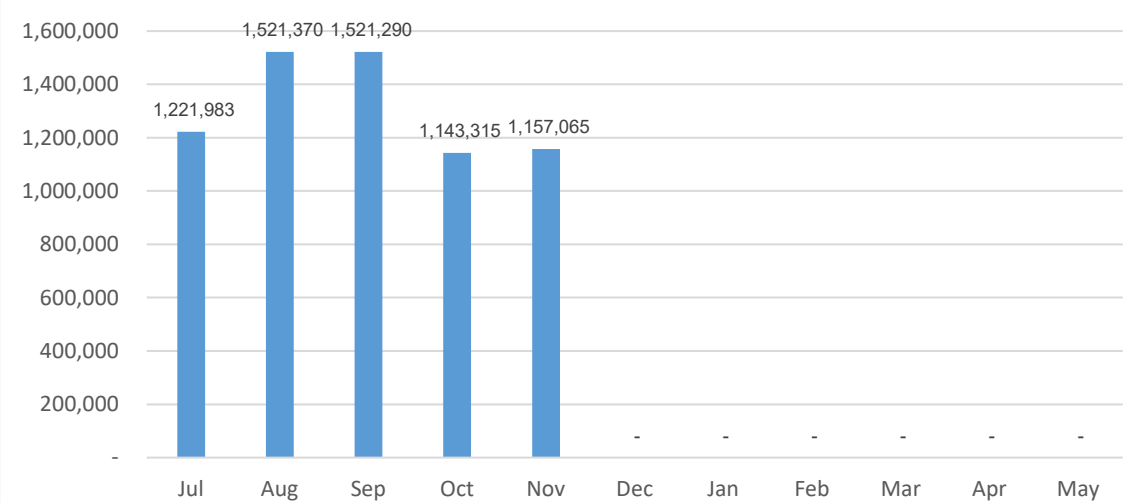
Revenue and Expense Charts for November 30, 2024

Revenue Charts - November Financial Report

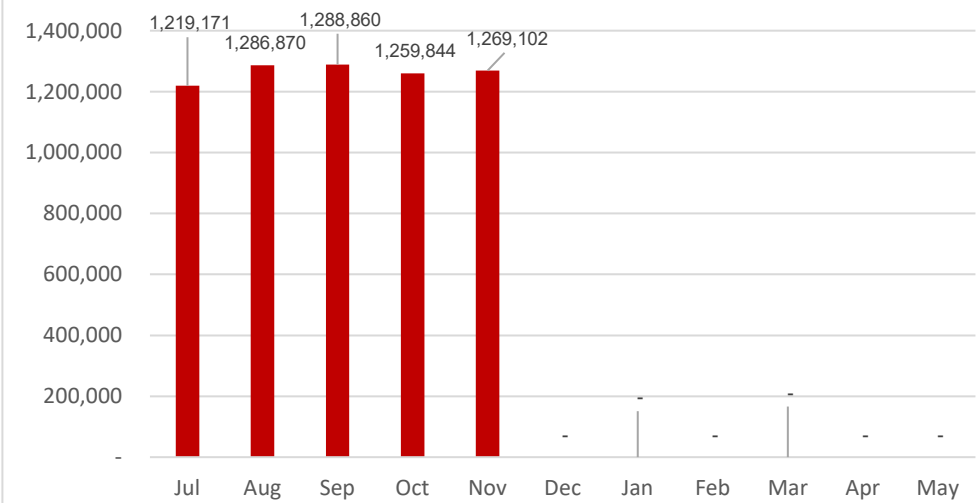
Year to Date Distribution of Revenues



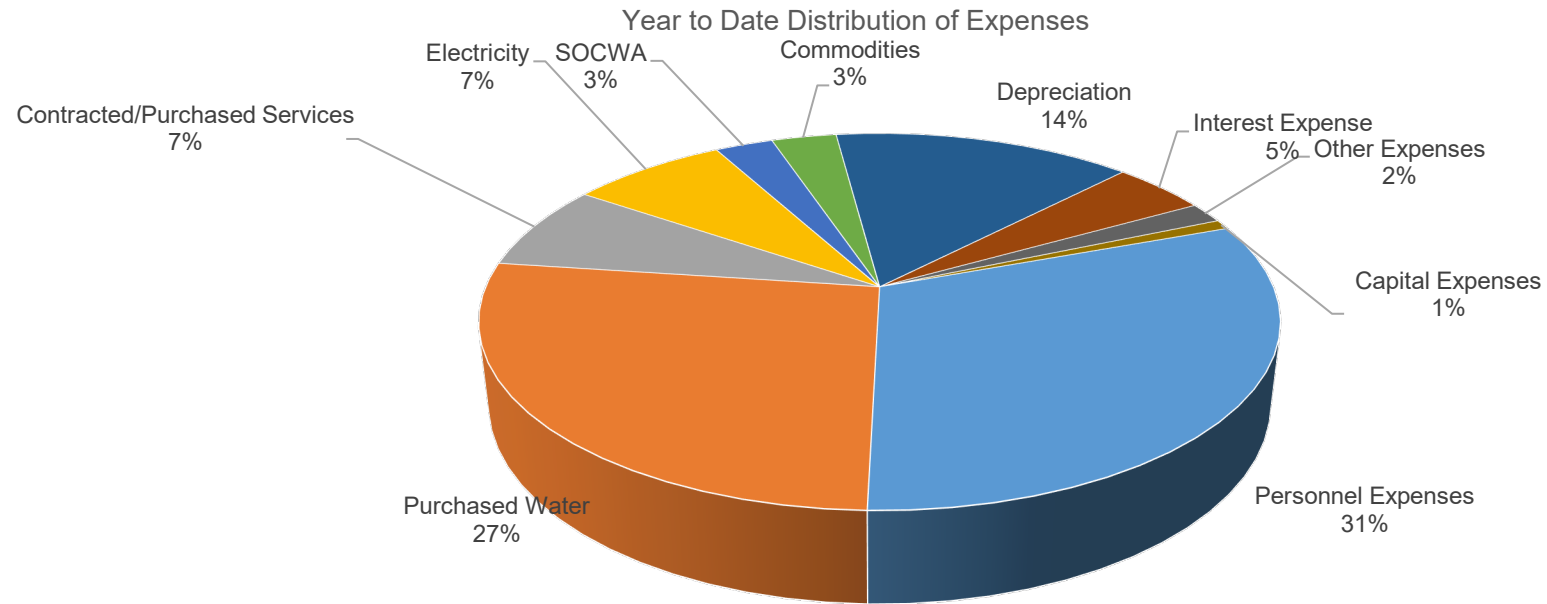
Commodity Charge Revenue by Month



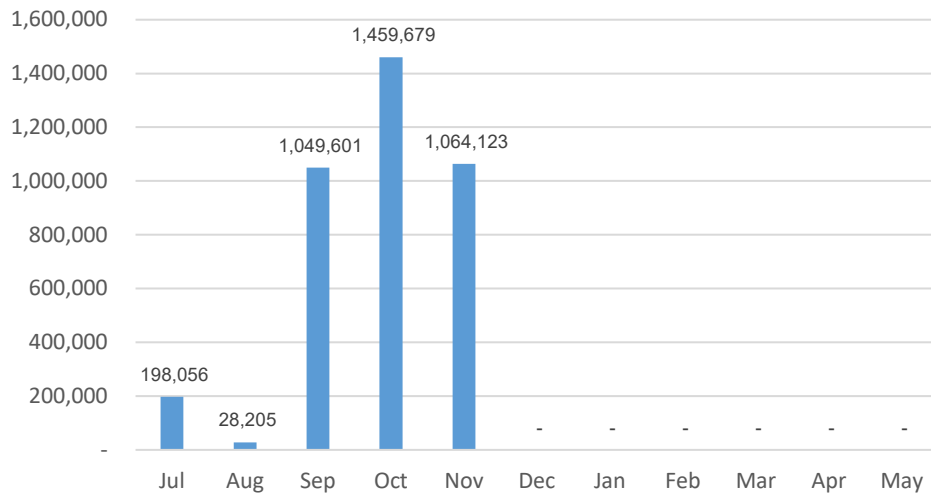
Service Charge Revenue by Month



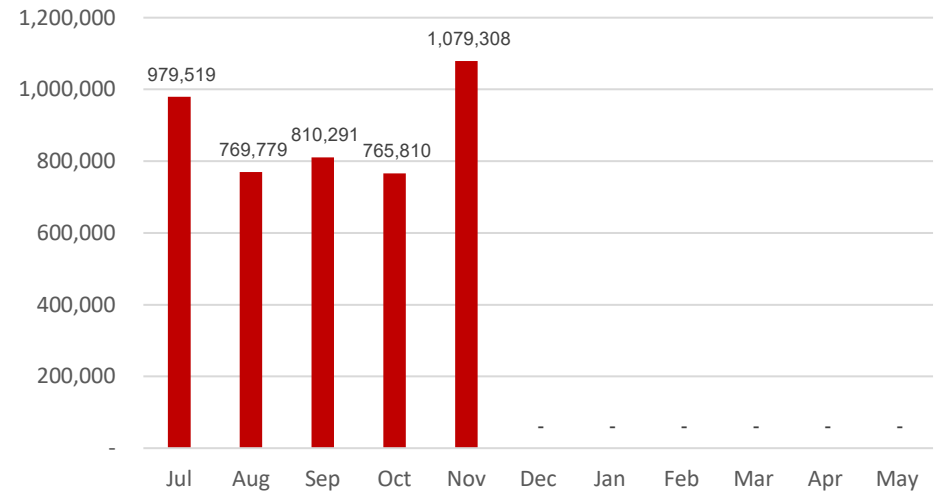
Expense Chart -November Financial Report



Purchased Water Expenses by Month



Personnel Costs by Month



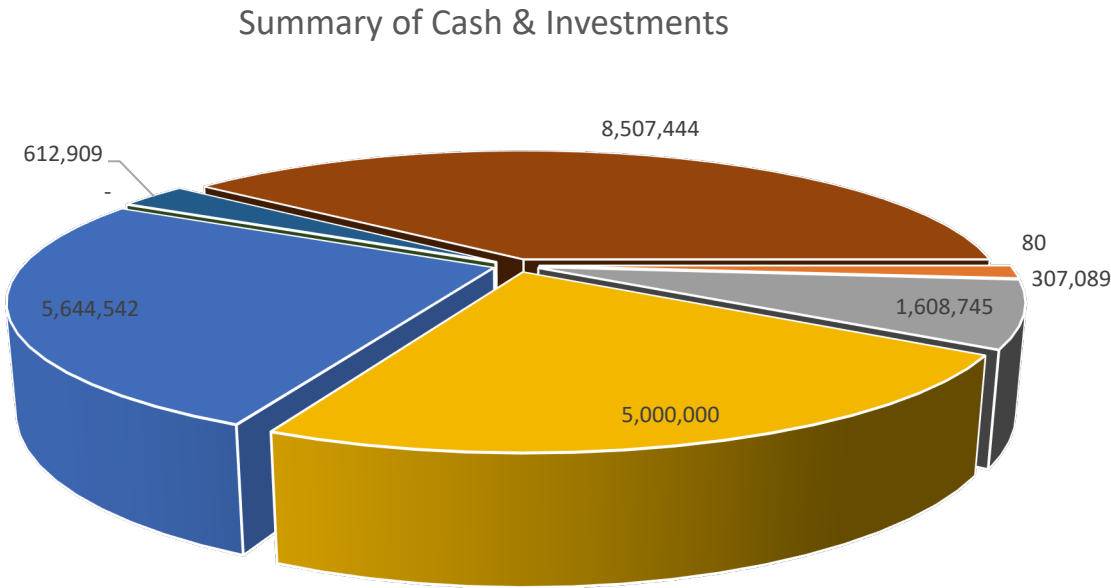
Attachment 6

Summary of Cash & Investments at the end of November 30, 2024

Summary of Cash & Investments
as of November 30, 2024

Summary of Cash & Investments

| | |
|---------------------------------------|---------------|
| Cash & Equivalents | |
| Unrestricted - Cash & Equivalents | 8,507,444 |
| Unrestricted - Cash & Equivalents USB | 612,909 |
| Restricted - Cash & Equivalents | - |
| Investments | |
| Government Securities | 5,644,542 |
| Certificates of Deposit | 5,000,000 |
| Corporates Bonds/Notes | 1,608,745 |
| Asset Backed Securities | 307,089 |
| 2022 Bond Money Market | 80 |
| Total Cash & Investments | 21,680,810 |
| Operating Cash & Investments | 21,680,729.85 |
| 2022 Bond Proceeds Cash & Investments | 80.39 |
| Restricted - Cash & Equivalents | - |



Cash & Equivalents

| | Account Balance | Current Yield |
|---|--------------------|------------------|
| Cash & Equivalents | | |
| Demand Deposit Accounts | | |
| US Bank - Checking Account | 612,909 | |
| US - Capital Facilities Checking | - | |
| US Bank - 2022 Bond Proceeds/Interest/Principal | 80 | |
| Petty Cash | 700 | |
| Money Market Accounts | | |
| US Bank - Money Market Account | | |
| CAMP Money Market | 4,930,374 | |
| LAIF Money Market | 3,576,370 | |
| Total Cash & Equivalents | 9,120,433 | |

Investments

| | Purchase Cost | Par Amount | Premium/ (Discount) | Market Value | Unrealized Gain/(Loss) | Coupon Rate | Yield to Maturity | Purchase Date | Maturity Date |
|--------------------------------------|------------------|---------------|------------------------|-----------------|---------------------------|----------------|----------------------|------------------|------------------|
| Governmental Securities | | | | | | | | | |
| United States Treasury Bond | | | | | | | | | |
| US Treasury N/B - AA+ | 347,047 | 350,000 | (2,953) | 348,548 | 1,501 | 1.125% | 1.42% | 2/4/2022 | 1/15/2025 |
| US Treasury N/B - AA+ | 149,566 | 150,000 | (434) | 148,878 | (688) | 2.750% | 2.85% | 6/1/2022 | 5/15/2025 |
| US Treasury N/B - AA+ | 1,045,201 | 1,050,000 | (4,799) | 1,054,142 | 8,941 | 4.625% | 4.90% | 6/12/2024 | 3/15/2026 |
| US Treasury N/B - AA+ | 1,026,744 | 1,050,000 | (23,256) | 1,040,690 | 13,946 | 3.625% | 4.84% | 6/12/2024 | 5/15/2026 |
| US Treasury N/B - AA+ | 466,543 | 500,000 | (33,457) | 484,610 | 18,067 | 2.125% | 4.20% | 11/30/2022 | 5/31/2026 |
| US Treasury N/B - AA+ | 464,531 | 500,000 | (35,469) | 480,039 | 15,508 | 2.250% | 4.10% | 11/30/2022 | 2/15/2027 |
| US Treasury N/B - AA+ | 480,273 | 500,000 | (19,727) | 489,356 | 9,082 | 3.250% | 4.25% | 2/22/2023 | 6/30/2027 |
| US Treasury N/B - AA+ | 502,500 | 500,000 | 2,500 | 500,059 | (2,442) | 4.125% | 4.01% | 11/30/2022 | 9/30/2027 |
| US Treasury N/B - AA+ | 497,930 | 500,000 | (2,070) | 500,059 | 2,129 | 4.125% | 4.22% | 2/22/2023 | 9/30/2027 |
| US Treasury N/B - AA+ | 485,332 | 500,000 | (14,668) | 490,801 | 5,469 | 3.500% | 4.16% | 2/22/2023 | 1/3/2028 |
| United States Treasury Bond - Totals | 5,465,668 | 5,600,000 | (134,332) | 5,537,180 | 71,512 | | | | |

| Investments (Continue) | | | | | | | | | |
|--|------------------|---------------|------------------------|-----------------|---------------------------|----------------|----------------------|------------------|------------------|
| | Purchase Cost | Par Amount | Premium/ (Discount) | Market Value | Unrealized Gain/(Loss) | Coupon Rate | Yield to Maturity | Purchase Date | Maturity Date |
| Supra-National Agency Bond / Note | | | | | | | | | |
| Supra-National Agency Bond / Note Totals | - | - | - | - | - | | | | |
| Municipal Bond / Note | | | | | | | | | |
| NJ TPK Authority TXBL Revenue Bonds - AA- | 20,000 | 20,000 | - | 19,941 | (59) | 0.897% | 0.90% | 1/22/2021 | 1/1/2025 |
| Municipal Bond / Note Totals | 20,000 | 20,000 | - | 19,941 | (59) | | | | |
| Federal Agency Commercial Mortgage-Backed Security | | | | | | | | | |
| FHMS K047 - AA+ | 88,641 | 88,077 | 564 | 87,422 | (1,219) | 3.329% | 3.11% | 5/19/2022 | 5/1/2025 |
| Federal Mortgage-Backed Security Totals | 88,641 | 88,077 | 564 | 87,422 | (1,219) | | | | |
| Governmental Securities - Total Balances | 5,574,309 | 5,708,077 | (133,768) | 5,644,542 | 70,234 | | | | |
| Corporate Notes | | | | | | | | | |
| Apple Inc Corp Note - AA+ | 42,786 | 40,000 | 2,786 | 39,912 | (2,875) | 2.750% | 0.89% | 3/11/2021 | 1/13/2025 |
| Merck & Co Inc Corp Notes | 21,389 | 20,000 | 1,389 | 19,924 | (1,465) | 2.750% | 0.94% | 3/9/2021 | 2/10/2025 |
| 3M Company Corp Note | 69,744 | 70,000 | (256) | 69,601 | (143) | 2.000% | 2.13% | 3/3/2022 | 2/14/2025 |
| Exon Mobil Corp Note | 29,874 | 30,000 | (126) | 29,839 | (35) | 2.709% | 2.86% | 4/1/2022 | 3/6/2025 |
| Intel Corp Notes | 30,873 | 30,000 | 873 | 29,852 | (1,020) | 3.400% | 2.40% | 3/8/2022 | 3/25/2025 |
| Burlington North Santa Fe Corp Note Call | 21,533 | 20,000 | 1,533 | 19,889 | (1,644) | 3.000% | 1.07% | 3/5/2021 | 4/1/2025 |
| Amazon.com Inc Corp Notes | 74,881 | 75,000 | (119) | 74,549 | (332) | 3.000% | 3.06% | 4/11/2022 | 4/13/2025 |
| Home Depot Inc Corp Note | 4,991 | 5,000 | (9) | 4,964 | (27) | 2.700% | 2.76% | 3/24/2022 | 4/15/2025 |
| Target Corp Note | 30,015 | 30,000 | 15 | 29,737 | (278) | 2.250% | 2.23% | 3/8/2022 | 4/15/2025 |
| Bank of NY Mellon Corp Note | 46,148 | 45,000 | 1,148 | 44,462 | (1,686) | 1.600% | 0.97% | 3/10/2021 | 4/24/2025 |
| Bank of NY Mellon Corp Note | 19,997 | 20,000 | (3) | 19,882 | (115) | 3.350% | 3.36% | 4/19/2022 | 4/25/2025 |
| Pepsico Inc Corp Note Call | 21,400 | 20,000 | 1,400 | 19,841 | (1,559) | 2.750% | 1.02% | 3/5/2021 | 4/30/2025 |
| Truist Financial Corp Call | 36,373 | 35,000 | 1,373 | 34,871 | (1,502) | 4.000% | 2.69% | 3/8/2022 | 5/1/2025 |
| Charles Schwab Corp Note | 40,616 | 40,000 | 616 | 39,815 | (800) | 3.850% | 3.30% | 6/1/2022 | 5/21/2025 |
| Honeywell Intl Corp Note | 20,360 | 20,000 | 360 | 19,669 | (692) | 1.350% | 0.91% | 3/5/2021 | 6/1/2025 |
| National Rural Util Coop Corp Note | 9,997 | 10,000 | (3) | 9,928 | (69) | 3.450% | 3.46% | 5/4/2022 | 6/15/2025 |
| Intel Corp Notes | 35,821 | 35,000 | 821 | 34,742 | (1,079) | 3.700% | 2.95% | 4/4/2022 | 7/29/2025 |
| Morgan Stanley Corp Notes | 126,939 | 130,000 | (3,062) | 128,849 | 1,910 | 3.875% | 5.41% | 6/12/2024 | 1/27/2026 |
| State Street Corp Note | 20,000 | 20,000 | - | 19,875 | (125) | 1.746% | 1.75% | 2/2/2022 | 2/6/2026 |
| Goldman Sachs Group Inc Corp Note Call | 126,585 | 130,000 | (3,415) | 128,565 | 1,980 | 3.750% | 5.38% | 6/12/2024 | 2/25/2026 |
| Caterpillar Finl Service Corp Notes | 99,911 | 100,000 | (89) | 100,732 | 821 | 5.050% | 5.11% | 6/11/2024 | 2/27/2026 |
| United Healthcare Group Inc Corp Notes | 125,597 | 130,000 | (4,403) | 128,000 | 2,403 | 3.100% | 5.14% | 6/12/2024 | 3/15/2026 |
| Citigroup Inc Corp Notes | 15,000 | 15,000 | - | 14,926 | (74) | 3.290% | 3.29% | 3/10/2022 | 3/17/2022 |
| State Street Corp Note | 61,208 | 60,000 | 1,208 | 59,607 | (1,601) | 2.901% | 2.38% | 2/17/2022 | 3/30/2026 |
| JPMorgan Chase & Co (Callable) | 145,148 | 150,000 | (4,853) | 147,612 | 2,465 | 3.300% | 5.20% | 6/12/2024 | 4/1/2026 |
| Bank of America Corp Notes | 125,806 | 130,000 | (4,194) | 128,074 | 2,268 | 3.500% | 5.35% | 6/12/2024 | 4/19/2026 |
| JPMorgan Chase & Co (Callable) | 80,000 | 80,000 | - | 79,717 | (283) | 4.080% | 4.08% | 4/19/2022 | 4/26/2026 |
| Toyota Motor Credit Corp Notes | 130,074 | 130,000 | 74 | 131,311 | 1,237 | 5.200% | 5.17% | 6/12/2024 | 5/15/2026 |
| Corporate Bonds - Total Balances | 1,613,064 | 1,620,000 | (6,936) | 1,608,745 | (4,319) | | | | |

| Investments (continued) | | | | | | | | | |
|----------------------------------|------------------|---------------|------------------------|-----------------|---------------------------|----------------|----------------------|------------------|------------------|
| | Purchase Cost | Par Amount | Premium/ (Discount) | Market Value | Unrealized Gain/(Loss) | Coupon Rate | Yield to Maturity | Purchase Date | Maturity Date |
| Asset Backed Securities | | | | | | | | | |
| Harot 2021 - AAA | 2,465 | 2,465 | (0) | 2,455 | (10) | 0.410% | 0.41% | 8/17/2021 | 11/18/2025 |
| Harot 2021 - Aaa | 4,840 | 4,841 | (1) | 4,794 | (46) | 0.880% | 0.89% | 11/16/2021 | 1/21/2026 |
| TAOT 2021 - AAA | 6,201 | 6,202 | (0) | 6,144 | (57) | 0.710% | 0.71% | 11/9/2021 | 4/15/2026 |
| Hart 2021 - AAA | 2,938 | 2,938 | (1) | 2,921 | (17) | 0.740% | 0.75% | 11/9/2021 | 5/15/2026 |
| Harot 2022 - AAA | 16,251 | 16,253 | (2) | 16,089 | (162) | 1.880% | 1.88% | 2/15/2022 | 5/15/2026 |
| FordO 2022 - AAA | 5,926 | 5,927 | (1) | 5,874 | (52) | 1.290% | 1.29% | 1/19/2022 | 6/15/2026 |
| BMWOT 2021 - AAA | 9,316 | 9,317 | (0) | 9,265 | (51) | 3.210% | 3.21% | 5/10/2022 | 8/25/2026 |
| COPAR 2021 - AAA | 6,212 | 6,212 | (0) | 6,142 | (70) | 0.770% | 0.77% | 10/19/2021 | 9/15/2026 |
| FordO 2022 - Aaa | 10,398 | 10,399 | (1) | 10,364 | (34) | 3.740% | 3.74% | 6/22/2022 | 9/15/2026 |
| TAOT 2022 - AAA | 13,479 | 13,479 | (0) | 13,382 | (97) | 2.930% | 2.93% | 4/7/2022 | 9/15/2026 |
| GMCAR 2021 - AAA | 6,155 | 6,155 | (0) | 6,086 | (69) | 0.680% | 0.68% | 10/13/2021 | 9/16/2026 |
| Hart 2022 - AAA | 20,588 | 20,589 | (1) | 20,406 | (183) | 2.220% | 2.22% | 3/9/2022 | 10/15/2026 |
| AllyA 2022 - AAA | 22,963 | 22,968 | (4) | 22,843 | (120) | 3.310% | 3.31% | 5/10/2022 | 11/15/2026 |
| GMCAR 2022 - AAA | 6,229 | 6,229 | (1) | 6,162 | (67) | 1.260% | 1.26% | 1/11/2022 | 11/16/2026 |
| HDMOT 2022 - AAA | 11,553 | 11,555 | (2) | 11,486 | (67) | 3.060% | 3.06% | 4/12/2022 | 2/15/2027 |
| GMCAR 2022 - AAA | 12,627 | 12,630 | (3) | 12,538 | (89) | 3.100% | 3.10% | 4/5/2022 | 2/16/2027 |
| Carmx 2022 - AAA | 15,941 | 15,943 | (2) | 15,865 | (76) | 3.490% | 3.49% | 4/21/2028 | 2/16/2027 |
| Comet 2022 - AAA | 69,995 | 70,000 | (5) | 69,625 | (370) | 2.800% | 2.80% | 3/23/2022 | 3/15/2027 |
| Comet 2022 - AAA | 64,990 | 65,000 | (10) | 64,649 | (340) | 3.490% | 3.49% | 6/6/2022 | 5/15/2027 |
| Corporate Bonds - Total Balances | 309,068 | 309,103 | (35) | 307,089 | (1,979) | | | | |

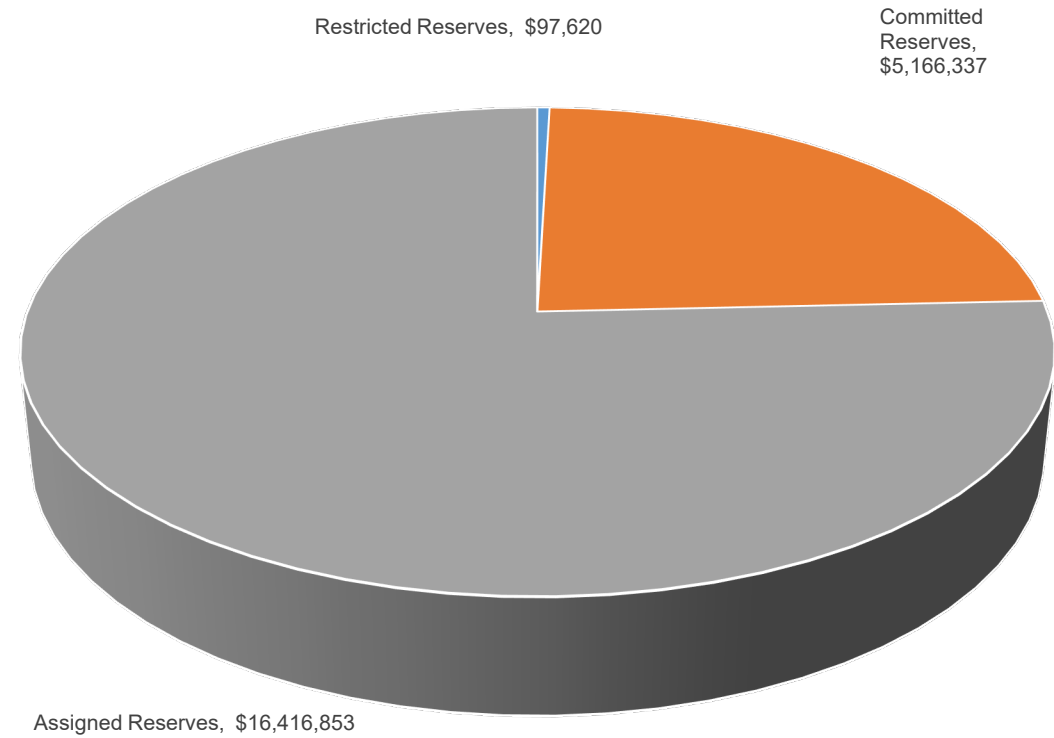
Attachment 7

Cash Reserve Balances for November 30, 2024

**El Toro Water District
Preliminary Cash Reserve Status Report
as of November 30, 2024**

| | Cash Reserve Balances | Reserve Targets |
|---|--------------------------|--------------------|
| Reconciled Cash Balance | \$ 21,680,810 | |
| Restricted Reserves | | |
| 2022 Revenue Bonds Fund | 80 | - |
| Capital Facilities Charge Reserve | 97,540 | - |
| Sub Total Restricted Reserve | 97,620 | - |
| Committed Reserves | | |
| Capital Construction Reserve | 1,975,455 | 3,000,000 |
| Rate Stabilization Reserve | 1,835,600 | 2,100,000 |
| Operational Continuity Reserve | 2,100,000 | 2,100,000 |
| Working Capital Reserve | (744,718) | 2,100,000 |
| Sub Total Committed Reserves | 5,166,337 | 9,300,000 |
| Assigned Reserves | | |
| CIP Reserves | | |
| Capital Carryover | 2,512,430 | - |
| Accumulated Capital Reserve | 316,573 | - |
| CIP - Revenue Bond Unrestricted Reserve | 8,314,793 | - |
| SOCWA Capital Projects | 3,650,875 | - |
| Recycled Water Capital / Debt Service | (1,380,464) | - |
| Capital Plan Working Capital Reserve(1) | 1,980,072 | - |
| Water Supply Program Reserves | | |
| Tiered Conservation Fund | 708,244 | - |
| Debt Service Reserves | | |
| Baker Debt Service | 314,330 | - |
| Sub Total Assigned Reserves | 16,416,853 | |
| Total Cash Reserves | 21,680,810 | |
| Adjusted Cash Reserves⁽²⁾ | 21,583,190 | 9,300,000 |

Distribution of Reserve Balances



(1) Working Capital reserve amount is net of outstanding checks

(2) The Adjusted Cash Reserves excludes Capital Facilities Charge Reserve and 2022 Revenue Bond fund which are obligated to the projects identified in the 2022 Bond Official Statement and are therefore not available for Operations & Maintenance activities or the annual Capital Improvement Program.

Attachment 8

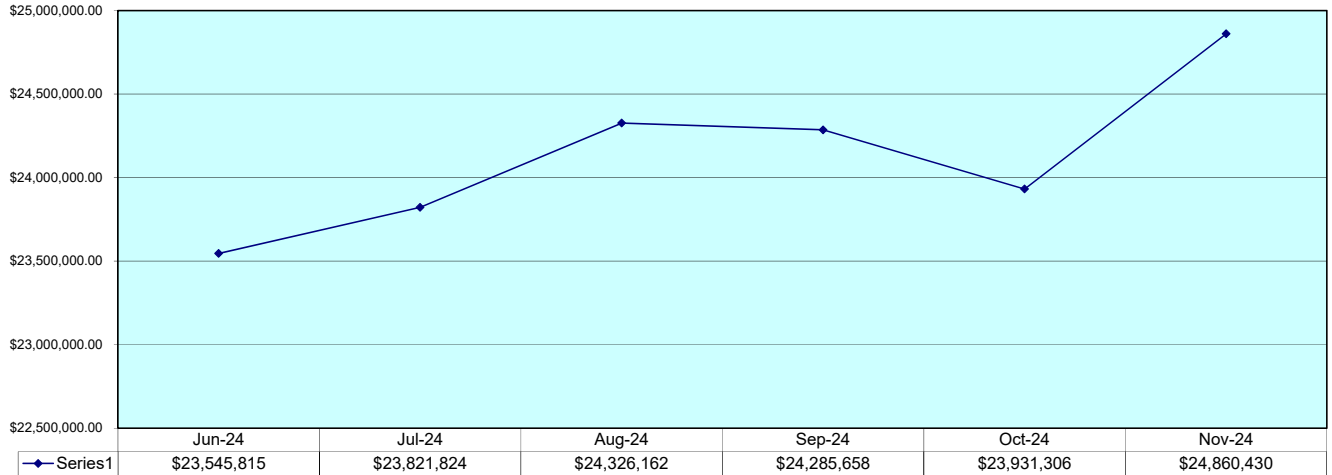
Capital Project Expense Report through November 30, 2024

| 2024-2025 Capital Program Budget Information | | | | | | | | | | | | | | | | | | |
|--|---|----------------------------|---------------------------|---------------|----------------------|------------|------------|------------|------------|------|------|------|------|------|------|------|--------------|--|
| | | | | | 2024 - 2025 Expenses | | | | | | | | | | | | | |
| PM Task Code | Project Description | Funding Source | Account | Total Budget | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | YTD Total | |
| GEN-0112 | New Warehouse | Revenue Bond | 40-000-15040 | 2,502,530.00 | | 3,486.38 | | 35,151.53 | | | | | | | | | 38,637.91 | |
| GEN-0119 | Main Office Warehouse Improvements | Carryover | 40-000-15040 | 43,225.18 | | 43,225.18 | 14,918.79 | | 15,814.10 | | | | | | | | 73,958.07 | |
| VEH-0010 | Vehicle Purchases | FY 24/25, Carryover | 40-000-15040 | 133,900.00 | | | | | | | | | | | | | - | |
| VEH-0012 | Hydro Excavator Rehabilitation | FY 24/25 CIP | 40-000-15040 | 40,000.00 | | | | | | | | | | | | | - | |
| VEH-0013 | F-550 with Valve Maintenance Skk | FY 24/25 CIP | 40-000-15040 | 206,000.00 | | | | | 91,694.62 | | | | | | | | 91,694.62 | |
| SPS-0050 | Asset Management Study 31-050 | FY 24/25 and 23/24 CIP | 40-840-55110 | 100,000.00 | | | | | 21,429.24 | | | | | | | | 21,429.24 | |
| SPS-0053 | System Arc Flash Coord Study | Carryover | 40-840-55110 | 180,000.00 | | | 15,010.00 | 12,085.00 | 14,510.00 | | | | | | | | 41,605.00 | |
| CAP-0051 | Sewer PLC Upgrade | Carryover | 40-000-15040 | 25,000.00 | | | | | - | | | | | | | | - | |
| CAP-0053 | Sewer Station HMI Rplmnt | FY 24/25 CIP | 40-750-66230 | 10,000.00 | | | | | - | | | | | | | | - | |
| RCE-0010 | JRWSS Capital Budget | FY 24/25 CIP | 40-000-15010 | 18,618.00 | | | | | 397.43 | | | | | | | | 397.43 | |
| RCE-0011 | Baker WTP Replacement Fund | FY 23/24 CIP | 40-000-15010 | 56,200.00 | (14,040.25) | | | 14,040.25 | | | | | | | | | - | |
| RCE-0015 | SOCWA Capital Expenses | FY 24/25 CIP | 40-000-15020 | 269,944.00 | | 72,680.00 | | | 16,615.84 | | | | | | | | 89,295.84 | |
| SLS-0120 | Freeway Electrical Equip Rep | FY 24/25, Carryover | 40-000-15020 | 263,362.00 | | | | | | | | | | | | | - | |
| SLS-0121 | Westline Main Switchboard Replacement | FY 24/25 CIP | 40-000-15020 | 37,250.00 | | | | | - | | | | | | | | - | |
| SLS-0122 | Westline Generator Unit 213 Replacement | FY 24/25 CIP | 40-000-15020 | 267,000.00 | | | | | - | | | | | | | | - | |
| WRP-0131 | Grit Chamber Rehab 933-131 | Accumulated and Carryover | 40-000-15020 | 1,046,502.00 | | 14,376.28 | 182,712.51 | 424,209.64 | 97,073.65 | | | | | | | | 718,372.08 | |
| WRP-0147 | DAF No 1 MCC Replacement | CIP and Carryover | 40-000-15020 | 149,000.00 | 113.27 | | | | | | | | | | | | 113.27 | |
| CAP-0067 | Influent Pump Station Isolation Gate Actuator Replacement | FY 24/25 CIP | 40-750-66230 | 15,000.00 | | | | | - | | | | | | | | - | |
| CAP-0072 | WRP Historian Configuration to Hach WIMS | FY 24/25 CIP | 40-750-66230 | 30,000.00 | | | | | - | | | | | | | | - | |
| WRP-0145 | Additional Tertiary Filter Disk | Recycle Capital Projects | 40-000-15030 | 92,000.00 | | | | | - | | | | | | | | - | |
| WRP-0137 | Tertiary Disinfection Optimization Study | Recycle Capital Projects | 40-000-15030 | 132,000.00 | | | 2,952.50 | 85.00 | | | | | | | | | 3,037.50 | |
| WRP-0142 | Headworks and Secondary Clarifier No. 1 Rehabilitation | CIP Bond fund/Rev Bond | 40-000-15020 | 1,998,800.00 | | 90,044.64 | | 59,090.11 | 5,566.00 | | | | | | | | 154,700.75 | |
| WRP-0146 | WRP Unit 290 Radiator Replacement | FY 24/25 CIP | 40-000-15020 | 150,000.00 | | | | | - | | | | | | | | - | |
| TBD | Added to Headworks - RAS Pump Station Rehabilitation | FY 24/25 CIP | 40-000-15020 | 145,000.00 | | | | | - | | | | | | | | - | |
| RES-0016 | Moulton/El Toro Cathodic Protection Repair | FY 24/25, Carryover | 40-000-15010 | 14,500.00 | | | 11,960.00 | 6,440.00 | 1,000.00 | | | | | | | | 19,400.00 | |
| CAP-0066 | New Handheld Meter Readers | FY 24/25 CIP | 40-720-66120 | 70,000.00 | | | | | - | | | | | | | | - | |
| RES-0019 | R-4 Reservoir RMS Mixer Replacement | FY 24/25 CIP | 40-000-15010 | 167,000.00 | | | | | - | | | | | | | | - | |
| WPS-0098 | Cherry Booster Station Pump & Motor Replacement | FY 24/25 CIP | 40-000-15010 | 600,000.00 | | | | | 68,765.25 | | | | | | | | 69,631.50 | |
| SLS-0115 | Aliso Creek Pump Rehab 932-115 | Carryover | 40-000-15020 | 25,000.00 | | 866.25 | | | | | | | | | | | - | |
| CAP-0050 | Water PLC Upgrade | Carryover | 40-000-15040 | 25,000.00 | | | | | - | | | | | | | | - | |
| CAP-0052 | Water Station HMI Rplmnt | FY 24/25 CIP | 40-720-66120 | 10,000.00 | | | | | - | | | | | | | | - | |
| TBD | Regional Potable reuse facility study | Grant | 40-710-55100 | 454,000.00 | | | | | - | | | | | | | | - | |
| SPS-0055 | Orange County Cross Connection Policy Handbook | FY 24/25 CIP | 40-710-55100 | 97,908.00 | | | | | - | | | | | | | | - | |
| SPS-0054 | Lead Copper Rule Revisor | FY 24/25 CIP | 40-000-15010 | 75,000.00 | | 64,595.50 | | | 21,633.50 | | | | | | | | 86,229.00 | |
| SPS-0057 | South Orange county Turnout projec | FY 24/25 CIP | 40-000-15010 | 631,000.00 | | | | | - | | | | | | | | - | |
| WRP-0143 | New Turbo Blower | FY 24/25 CIP | 40-000-15020 | 191,000.00 | | | | 139,487.15 | | | | | | | | | 139,487.15 | |
| WRP-0144 | OOPS MCC and Valve Rehabilitation Project | FY 24/25 CIP | 40-000-15020 | 9,000.00 | | | | | 7,725.68 | | | | | | | | 7,725.68 | |
| CAP-0065 | R-6 Outlet flow meter backup | Water project | 40-720-66120 | 49,000.00 | | | | | - | | | | | | | | - | |
| CAP-0068 | System-Wide Security Access Panel Replacement | FY 24/25 CIP | 40-000-15040 | 20,000.00 | | | | | - | | | | | | | | - | |
| CAP-0069 | Remittance Processing Equipment Update | FY 24/25 CIP | 40-000-15040 | 61,000.00 | | | | | - | | | | | | | | - | |
| CAP-0070 | Documentum Replacement / Corporate Intranet Development | FY 24/25 CIP | 40-000-15040 | 20,000.00 | | | | | - | | | | | | | | - | |
| CAP-0071 | Water Distribution and Sewer Collection System SCADA Upgrade | FY 24/25 CIP | 40-000-15040 | 22,092.00 | 51.71 | | | | - | | | | | | | | 51.71 | |
| TBD | Contingency | FY 24/25 CIP | 40-830-66120 | 10,000.00 | | | | | - | | | | | | | | - | |
| CAP-0073 | Warehouse Office HVAC | FY 24/25 CIP | 40-830-66120 | 20,000.00 | | | 9,558.00 | | - | | | | | | | | 9,558.00 | |
| WRP-0150 | IPS Check Valve Replacement | FY 24/25 CIP | 40-000-15020 | 70,000.00 | | | | | - | | | | | | | | - | |
| WRP-0151 | Secondary Clarifier No. 3 Drive Replacement | FY 24/25 CIP | 40-000-15020 | - | | | | | - | | | | | | | | - | |
| RES-0047 | R-6 Reservoir Cover (CIP23) | Revenue Bond and Carryover | 40-000-15040/CIP23 | - | | 11,537.00 | | | 7,569.00 | | | | | | | | 11,537.00 | |
| RES-0017 | SRV-2 Lid Repair | FY 23/24 CIP | 40-000-15010 | - | | | | | - | | | | | | | | - | |
| RES-0018 | R-6 Security Improvements | FY 23/24 CIP | 40-000-15010 | - | | | | | 49,044.44 | | | | | | | | 49,044.44 | |
| RES-0015 | R-4 Exterior Recoating | FY 23/24 CIP | 40-000-15010 | - | | | | | - | | | | | | | | - | |
| CAP-0024 | P-4 Pump Replacement | Carryover | 40-000-15010 | 59,000.00 | 103.42 | 36,544.73 | | 36,229.86 | | | | | | | | | 72,878.01 | |
| WRP-0135 | WRP Main Electrical Power Breaker Upgrades | Carryover | 40-000-15020 | - | 1,787.51 | | | 77,107.80 | | | | | | | | | 78,895.31 | |
| CAP-0054 | 23-24 ATS Replacements | FY 23/24 CIP and Carryover | 40-000-15040 | - | | | | | - | | | | | | | | - | |
| CAP-0054 | 23-24 ATS Replacements | FY 23/24 CIP and Carryover | 40-000-15040 | - | | | | | - | | | | | | | | - | |
| TCP-0006 | 23-24 Security System Imprints | FY 23/24 CIP | 40-000-15040 Add in | - | | | | | 39,920.75 | | | | | | | | 39,920.75 | |
| TCP-0008 | EOC Technology Upgrade | FY 23/24 CIP | 40-820-66120 Add in | - | | | 10,165.75 | | - | | | | | | | | 10,165.75 | |
| SPS-0051 | IT Master Plan | Carryover | 40-820-55100 Add in | - | | | 13,748.75 | | 5,185.00 | | | | | | | | 18,933.75 | |
| SLS-0119 | Northline Coating Impr Project | FY 23/24 CIP | 40-000-15020 Add in | - | | | 33,345.64 | | - | | | | | | | | 33,345.64 | |
| WRP-0149 | ETM Trail Bridge Mitigation Project | 40-000-15020 | Need to track labor as | - | | | | | - | | | | | | | | - | |
| WPS-0095 | P-3 Pump Station Rehab | 40-000-15010 | Need to track labor as | - | | | | | - | | | | | | | | - | |
| RES-0020 | R-6 Reservoir SCE Meter Box Replacement at Seepage and Inlet/Outlet Structure | Non budgeted project | - | - | | | | | - | | | | | | | | - | |
| WRP-0148 | WRP Zoom Room | FY 24/25 CIP | 40-820-66120 Non budgeted | - | | 8,410.50 | | | - | | | | | | | | 8,410.50 | |
| GEN-0514 | CalTrans I-5 Widening | Carryover | 40-000-15040 | 5,313.00 | | | | | 5,313.00 | | | | | | | | - | |
| Gross project cost | | | | 10,606,831.18 | -11,984.34 | 247,311.32 | 406,867.33 | 789,886.09 | 469,257.50 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1,896,024.90 | |
| | | | | | | | | | | | | | | | | | | |
| Bond CIP Unrestricted Funds | | | | 4,476,530.00 | - | 14,880.32 | 88,928.09 | 93,508.92 | 5,496.98 | - | - | - | - | - | - | - | 202,814.31 | |
| 2023-24 CIP Budget | | | | 2,438,334.00 | (13,979.44) | 64,738.56 | 38,375.74 | 65,812.99 | 141,918.44 | - | - | - | - | - | - | - | 296,866.30 | |
| SOCWA | | | | 269,944.00 | - | 72,680.00 | - | - | 16,615.84 | - | - | - | - | - | - | - | 89,295.84 | |
| Carryover Project Fund | | | | 1,412,058.18 | 1,995.10 | 82,677.59 | 62,583.53 | 189,273.27 | 120,217.85 | - | - | - | - | - | - | - | 451,434.34 | |
| Accumulated Capital Funds | | | | 1,247,278.00 | - | 12,334.85 | 214,027.47 | 441,205.91 | 185,008.38 | - | - | - | - | - | - | - | 852,576.61 | |
| Grants | | | | 454,000.00 | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Recycle Capital Projects | | | | 224,000.00 | - | - | 2,952.50 | 85.00 | - | - | - | - | - | - | - | - | 3,037.50 | |
| | | | | 10,522,144.18 | (11,984.34) | 247,311.32 | 406,867.33 | 789,886.09 | 469,257.50 | - | - | - | - | - | - | - | 1,896,024.90 | |

Attachment 9
Interim Report on 401k Plan Holdings
As of November 30, 2024

EL TORO WATER DISTRICT 401K PLAN SUMMARY

401K PLAN MARKET VALUE



| MARKET VALUE SUMMARY | | | | | | | |
|------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|
| | Under 41 yrs. Old | 41 to 48 yrs. Old | 49 to 55 yrs. Old | 56 to 58 yrs. Old | 59 to 62 yrs. Old | 63 to 65 yrs. Old | Over 65 yrs. Old |
| Balance at June 30, 2024 | \$2,035,902.59 | \$3,194,841.09 | \$3,978,641.85 | \$2,669,523.86 | \$6,131,527.99 | \$2,755,944.40 | \$2,779,433.18 |
| | Under 41 yrs. Old | 41 to 48 yrs. Old | 49 to 55 yrs. Old | 56 to 58 yrs. Old | 59 to 62 yrs. Old | 63 to 65 yrs. Old | Over 65 yrs. Old |
| Balance at November 30, 2024 | \$2,356,183.84 | \$3,573,193.60 | \$4,015,930.01 | \$2,843,682.07 | \$6,412,168.03 | \$2,185,192.91 | \$3,474,079.30 |

District Staff is working with Highmark and Empower to design a new 401k report. Once the data for the portfolios is being generated by Empower, the District portfolio information by age group will be updated.

| Row Labels | Beginning Balance | Contributions | Withdrawals | Interest, Dividends and Appreciation Net of Fees & Charges | Ending Balance |
|---|----------------------|-------------------|-------------|--|----------------------|
| American Beacon AHL Mgd Futs Strat A | 637,317.65 | 2,691.49 | 0.00 | 7,805.31 | 647,814.45 |
| BlackRock Tactical Opportunities K | 244,291.89 | 1,182.40 | 0.00 | 6,597.90 | 252,072.19 |
| Columbia Contrarian Core Instl 3 | 2,162,046.54 | 11,861.36 | 0.00 | 96,501.12 | 2,270,409.02 |
| Delaware Small Cap Core R6 | 756,707.32 | 3,832.30 | 0.00 | 67,984.44 | 828,524.06 |
| DFA Large Cap International I | 1,324,892.63 | 7,683.69 | 0.00 | 27,413.76 | 1,359,990.08 |
| Dodge & Cox Income - I | 2,582,264.11 | 10,977.72 | 0.00 | 66,852.35 | 2,660,094.18 |
| Dodge & Cox International Stock - I | 350,228.41 | 1,896.74 | 0.00 | (2,701.34) | 349,423.81 |
| Dodge & Cox Stock - I | 1,158,409.57 | 6,391.10 | 0.00 | 47,119.84 | 1,211,920.51 |
| DoubleLine Core Fixed Income R6 | 2,478,280.77 | 10,578.40 | 0.00 | 54,581.40 | 2,543,440.57 |
| Emerald Growth Institutional | 510,005.70 | 3,082.93 | 0.00 | 46,767.89 | 559,856.52 |
| Guaranteed Income Fund | 711,611.40 | 2,900.72 | 0.00 | 6,560.91 | 721,073.03 |
| Harbor Capital Appreciation Retirement | 1,040,682.13 | 5,919.86 | 0.00 | 41,179.20 | 1,087,781.19 |
| MFS International Growth R6 | 350,050.90 | 1,896.74 | 0.00 | (2,285.06) | 349,662.58 |
| Nuveen Real Estate Securities R6 | 734,765.19 | 3,483.60 | 0.00 | 25,617.34 | 763,866.13 |
| PGIM Total Return Bond R6 | 2,045,372.89 | 8,463.39 | 0.00 | 50,503.50 | 2,104,339.78 |
| PIMCO Income Instl | 290,600.29 | 1,367.87 | 0.00 | 7,384.07 | 299,352.23 |
| PIMCO RAE US Instl | 1,134,786.18 | 6,391.11 | 0.00 | 67,532.59 | 1,208,709.88 |
| The Merger Fund I | 239,269.73 | 1,182.40 | 0.00 | 3,201.69 | 243,653.82 |
| Undiscovered Mgrs Behavioral Value R6 | 506,031.45 | 3,082.93 | 0.00 | 41,456.00 | 550,570.38 |
| Vanguard Emerging Mkts Stock Idx Adm | 628,129.56 | 3,616.64 | 0.00 | (14,845.08) | 616,901.12 |
| Vanguard Growth & Income Adm | 2,191,493.67 | 11,937.22 | 0.00 | 85,022.67 | 2,288,453.56 |
| Vanguard Growth Index Adm | 894,668.20 | 5,087.18 | 0.00 | 37,983.43 | 937,738.81 |
| Vanguard Long-Term Investment-Grade Adm | 714,542.33 | 3,043.16 | 0.00 | 27,373.20 | 744,958.69 |
| Vanguard Mid Cap Index Fund - Admiral | 244,857.36 | 1,182.40 | 0.00 | 13,783.41 | 259,823.17 |
| Grand Total | 23,931,305.87 | 119,733.35 | 0.00 | 809,390.54 | 24,860,429.76 |

MINUTES OF THE REGULAR MEETING
& OF THE
ENGINEERING COMMITTEE MEETING

November 25, 2024

At approximately 8:48 a.m. Director Freshley called the Engineering Committee meeting to order.

Committee Members MARK MONIN, MIKE GASKINS, KAY HAVENS, and KATHRYN FRESHLEY participated.

Also participating were DENNIS P. CAFFERTY, General Manager, VISHAV SHARMA, CFO, SCOTT HOPKINS, Operations Superintendent, JUDY CIMORELL, Director of Human Resources, GILBERT J. GRANITO, General Counsel, MIKE MIAZGA, IT Manager (Zoom), VICKI TANIOUS, Senior Accountant (Zoom), CAROL MOORE, Laguna Woods City Council Member (Zoom), WYATT MCLEAN, City of Lake Forest Community Member, and MARISOL MELENDEZ, Recording Secretary.

Consent Calendar

Director Freshley requested an update on the outdoor electrical equipment enclosure at the new warehouse. Mr. Cafferty confirmed that the electrical equipment is rated for outdoor use.

Director Freshley inquired about SCE's coordination with the District regarding upgrades to the distribution system and potential changes to the District's default levels. Mr. Cafferty explained that SCE does not proactively communicate infrastructure improvements; however, the District remains vigilant about monitoring its systems and will continue to work on improving communication with SCE.

Director Freshley asked for a Motion.

Motion: President Monin made a Motion, seconded by Director Havens to approve the Consent Calendar.

Roll Call Vote:

| | |
|------------------------|-----|
| Director Freshley | aye |
| Director Havens | aye |
| Vice President Gaskins | aye |
| President Monin | aye |

Engineering Information Items

ETWD Operations Report

Mr. Hopkins reported that staff will complete the valves within the next week, which is ahead of schedule. The completed count also includes the outstanding valves from the end of last year.

Director Havens inquired about the steel plates in the clubhouse six area. Mr. Hopkins explained staff has been operating the valves and has replaced three valves in the area to ensure adequate shut downs. Mr. Cafferty added that when staff identifies valves that don't shut down completely due to their outdated design, they schedule replacements with improved valve design and technology.

Director Havens inquired whether or not both District staff and the fire department exercise fire hydrants. Mr. Cafferty clarified that the fire department does not operate a valve maintenance program relative to fire hydrants.

Director Havens inquired about the R-9 chlorine residual monitoring data on page 215. Mr. Hopkins acknowledged some formatting issues and stated he would further verify the data with staff.

Mr. Cafferty stated that Terra Verde is currently compiling a detailed analysis and reviewing the reporting to confirm whether the WRP battery storage system is operating at peak efficiency. He mentioned that Terra Verde will provide results once the analysis

is complete. Additionally, Mr. Cafferty noted that STEM is interested in renewing their contract, but staff is postponing the decision until the evaluation is finalized and after potential conflicts with other projects are considered.

El Toro Water District Capital Project Status Report

Grit Chamber Rehabilitation

Mr. Cafferty reported that the project is nearly complete. He noted a few items required corrections, including a series of previously drilled holes in the concrete that will be patched. Additionally, the location of the new disconnect switch did not provide adequate access and will be eliminated at minimal cost by the contractor. The larger cost item involves the air flow meter, which is too close to the upstream fittings to provide accurate information. The contractor will relocate the meter and modify the power supply. Mr. Cafferty stated the project is expected to be completed, with the Grit Chamber restored to full service by mid-December.

New Warehouse

Mr. Cafferty reported that the panel was received and installed. However, Edison noticed a grounding incompatibility between their transformer and two of the existing meter pedestals for the cell sites, which has prevented the panel from being energized due to safety concerns. Verizon and T-Mobile will be scheduled to make necessary changes within the meter pedestal, after which Edison will perform a shutdown, make modifications, and energize the panel on the same day. Meanwhile, the security system within the building is being installed. Mr. Cafferty also mentioned that AQMD submitted their plans last week to install their air monitoring facility. The project is expected to be completed early next year.

Secondary Clarifier No. 3 Drive Replacement

Mr. Cafferty reported that the order for the drive has been placed, and staff received installation quotes from several contractors. The drive is expected to be delivered in January, and will be repaired then. He noted that this item will be included on the agenda for the December Engineering Committee meeting.

Director Freshley inquired about the variable frequency of the equipment. Mr. Cafferty stated he will follow up.

Main Office Warehouse Drainage Improvement Project

Mr. Cafferty reported that during the repair process, significant interior damage was discovered due to mold, which resulted from the prolonged water intrusion. The building's grade is inadequate, preventing water from flowing away from the structure, and this issue is being addressed. The estimated consultant cost for the project is \$100,000.00, and the final design is nearing completion.

Headworks and Secondary Clarifier No. 1 Rehabilitation Project

Mr. Cafferty stated that Carollo is finalizing the design and is currently at 90% completion.

Aliso Creek Lift Station Rehabilitation Project

Mr. Cafferty reported that staff attended a 60% design meeting, and the project will continue forward. Additionally, staff has been working with the environmental consultant, Rincon, to complete tribal consultations to help identify any potential tribe concerns.

Ocean Outfall Pump Station (OOPS) Motor Control Center (MCC) and Valve Rehabilitation Project

Mr. Cafferty stated staff is planning to issue a purchase order for an MCC, which will arrive early next year.

Tertiary Disinfection Optimization Project

Mr. Cafferty stated staff is waiting on the DDW to respond to its letter.

New Turbo Blower

Mr. Cafferty reported that staff placed the order for the turbo blower and filter, and a mechanical contractor will be hired for installation.

Energy Efficiency Analysis

Mr. Cafferty stated Terra Verde is analyzing potential project opportunities and evaluating the battery operation. Additionally, staff is coordinating with SoCalRen on a grant application to help offset some costs for the headworks project.

Engineering Items Discussed at Various Conferences and Meetings

There were no comments.

Comments Regarding Non-Agenda Engineering Committee Items

There were no comments.

Adjournment

There being no further business, the Engineering Committee meeting was adjourned at approximately 9:24 a.m.

Regular Session

Attorney Report

Mr. Granito reported that there is a need for a Closed Session today to discuss the item on the Closed Session Agenda.

Closed Session

At approximately 9:24 a.m. the Board went into Closed Session to discuss the item on the Closed Session Agenda. Also, at this time everyone left the meeting except the Board members, General Counsel, and Ms. Cimorell.

Open Session Report

At approximately 9:39 a.m. the Board returned to Regular Session. Also, at this time, Ms. Melendez returned to the meeting.

Mr. Granito reported that the Board went into Closed Session in two phases to discuss the item on today's Closed Session agenda. During the first phase, the Board members, General Counsel, and Ms. Cimorell participated. Mr. Granito reported that Mr. Cafferty returned to the meeting for the second phase. No reportable action was taken.

Adjournment

There being no further business to come before the Board, the meeting was adjourned at 9:40 a.m.

Respectfully submitted,

MARISOL MELENDEZ
Recording Secretary

APPROVED:

MARK MONIN, President
of the El Toro Water District and the
Board of Directors thereof

DENNIS P. CAFFERTY, Secretary
of the El Toro Water District and the
Board of Directors thereof



STAFF REPORT

To: Board of Directors

Meeting Date: December 16, 2024

From: Dennis Cafferty, General Manager

Subject: Secondary Clarifier No. 3 Drive Replacement Project

At the end of September, the drive for Secondary Clarifier No. 3 catastrophically failed. District staff conducted an inspection and found that the drive chain had ridden off the drive sprocket. Further inspection revealed that the drive sprocket was misaligned due to internal broken parts. District staff isolated the clarifier, split the plant flow to Secondary Clarifiers No. 1 and No. 4, rebalanced the return activated sludge (RAS), and dewatered Secondary Clarifier No. 3.



The WRP is designed to operate with all three clarifiers in operation, so rapid response was necessary. The need to replace this clarifier was flagged by District staff and the asset management program due to its age (originally installed in 1997) and condition, but the capital improvement plan staggered the replacement of this drive following the older, Secondary Clarifier No. 1, for which design of a replacement as well as full rehabilitation

is currently underway. Given that Secondary Clarifier No. 1 will be offline during construction of its planned rehabilitation, ensuring that Secondary Clarifier No. 3 is fully functional is of the utmost importance.

District staff solicited two equipment quotes: one for rebuilding the existing drive and one for full replacement from the original equipment manufacturer, EIMCO. The difference between rebuilding versus full replacement was only \$3,000, so District staff opted to purchase the new drive for \$57,306.84. District staff placed the purchase order for the new Secondary Clarifier No. 3 drive in October and anticipates delivery in January 2025.

Staff also obtained quotes for installation of the new clarifier drive from two contractors.

| | |
|-------------------------------|-----------|
| Don Peterson Contracting Inc. | \$ 28,562 |
| Kingmen Construction Inc. | \$ 32,021 |

Don Peterson is a reputable contractor who has successfully performed several projects for the District and the WRP.

BUDGET EVALUATION

As this project resulted from a catastrophic failure, the project was not included in the 2024-25 capital budget. The total project cost, summarized below, will be funded from existing capital reserves.

| Item | Amount |
|----------------------------|---------------------|
| Ovivo Clarifier Drive Unit | \$ 57,306.84 |
| Installation | \$ 28,562.00 |
| Total | \$ 85,868.84 |

CEQA

This Project is categorically exempt because the work involves repairing existing equipment with no expansion of existing or former use. Staff filed the appropriate Notice of Exemption in November of 2024.

Recommended Action:

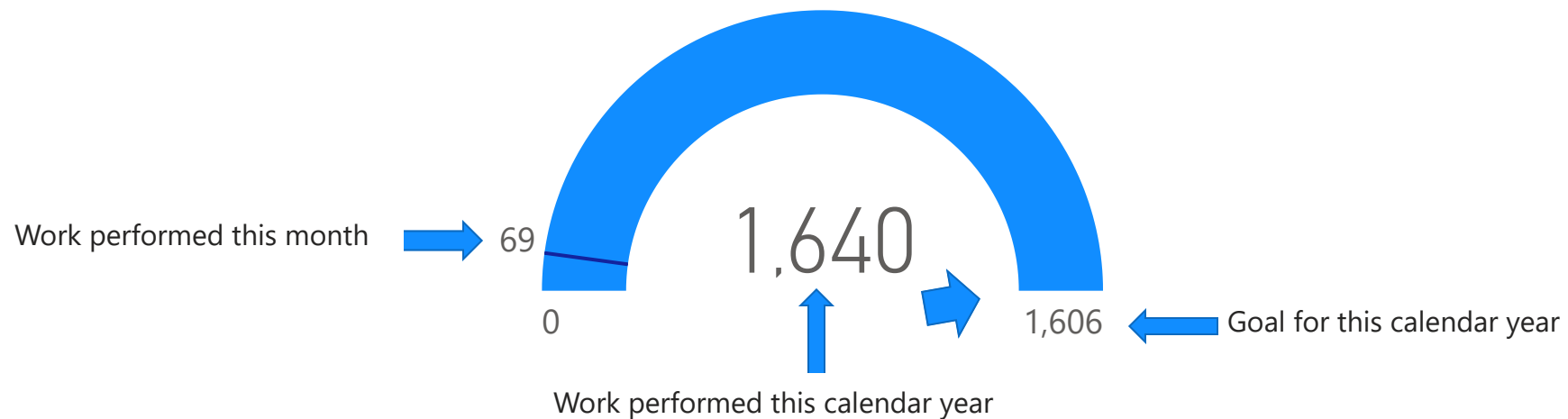
Staff recommend that the Board of Directors authorize the District's General Manager to enter into a contract with Don Peterson Contracting, Inc. in the amount of \$28,562 for work associated with the installation of the new secondary clarifier drive for Clarifier No. 3. Staff further recommend that the Board authorize the General Manager to fund the project costs from the District's Capital Reserves in accordance with the District's adopted Capital Reserve Policy.



Operations Report

November 2024

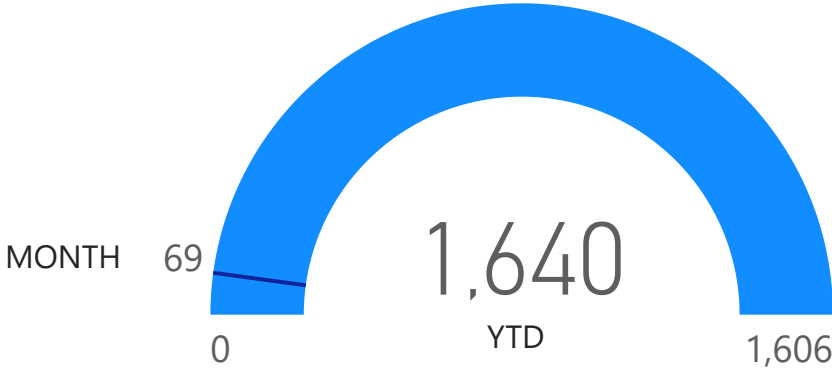
How to read the graphics in this report:



Valves

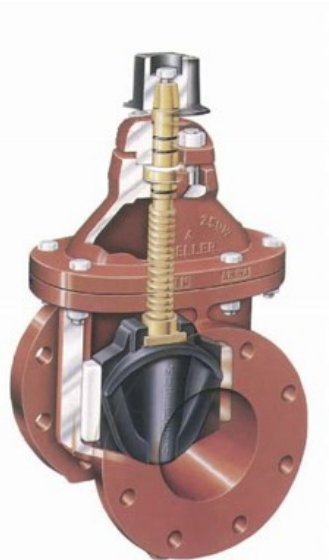
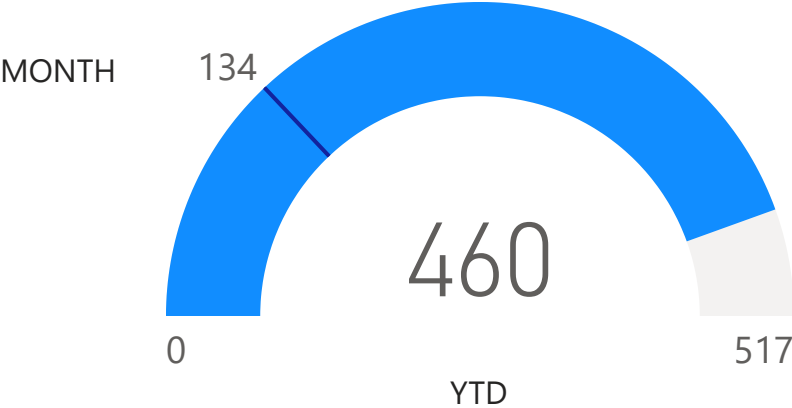
Distribution Valves Operated

Mainline



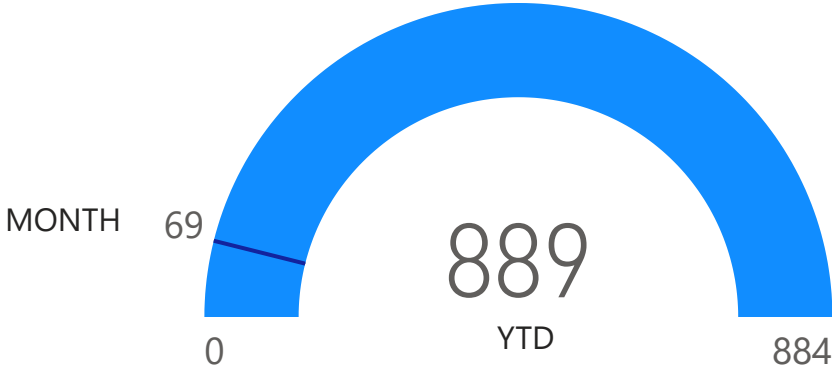
Arterial Valves Operated

Mainline



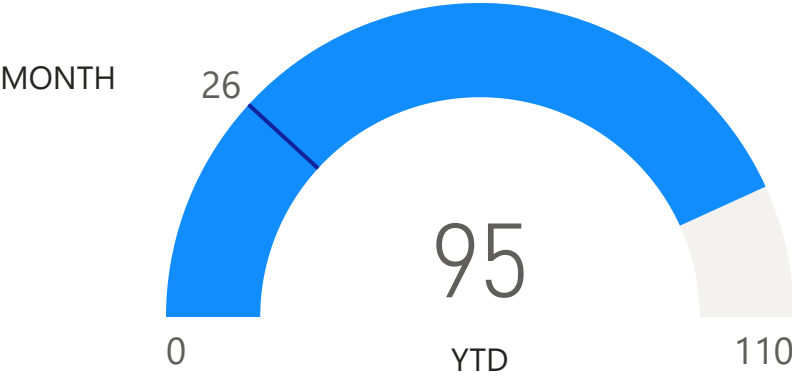
Distribution Valves Operated

Fire Hydrant



Arterial Valves Operated

Fire Hydrant



| Asset | Month | YTD |
|------------------------------|-------|-----|
| Potable Valves Repaired | 1 | 1 |
| Potable Valves Replaced | 2 | 16 |
| Valve Cans Adjusted/Replaced | 1 | 38 |
| Valve Cans Cleaned | 0 | 14 |
| Total | 4 | 69 |

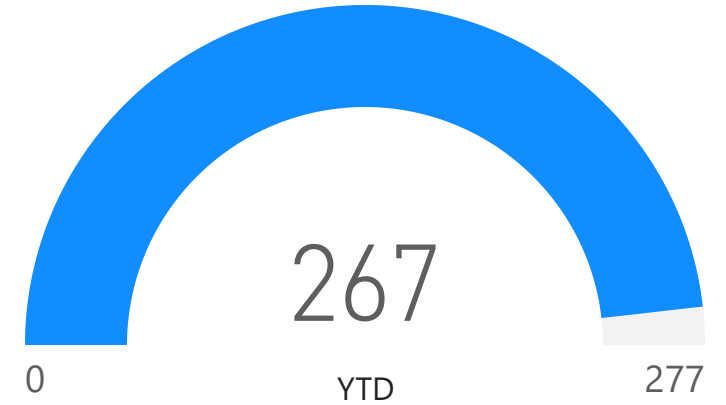
- Note:
- 1. The distribution valve operation program strives to operate all distribution valves (mainline and fire) every two years. Goals shown on this page represent that for the calendar year (i.e., total number of distribution valves divided by two).
 - 2. The arterial valve operation program strives to operate all arterial valves (mainline and fire) every year.

Cross Connection Program

Backflow Assemblies Tested

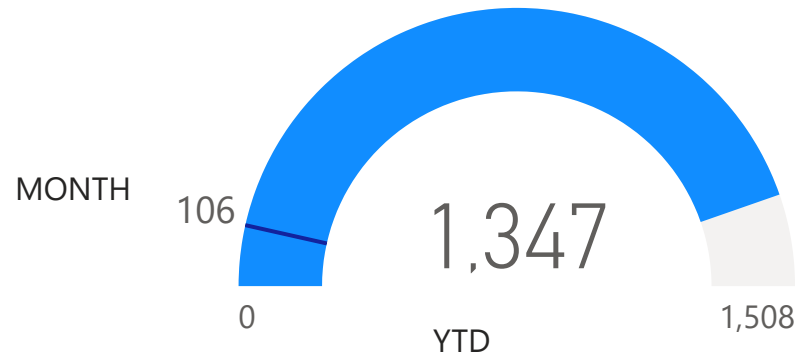


Recycled Water Inspections



Other Facility Maintenance

Generator Inspections



Underground Service Alerts Marked

98
Month

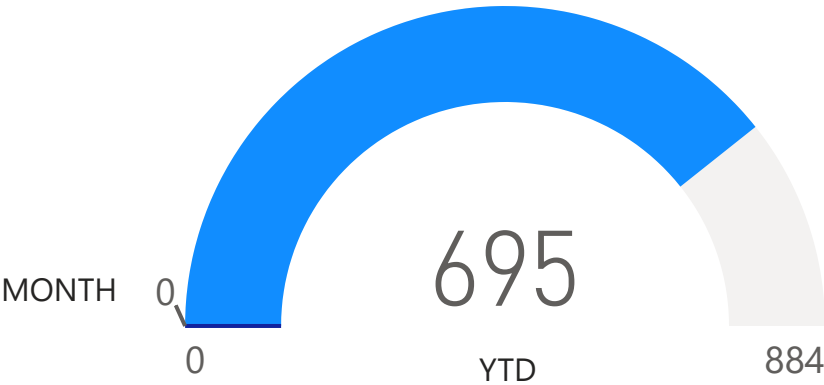
Underground Service Alerts Marked

1,906
YTD

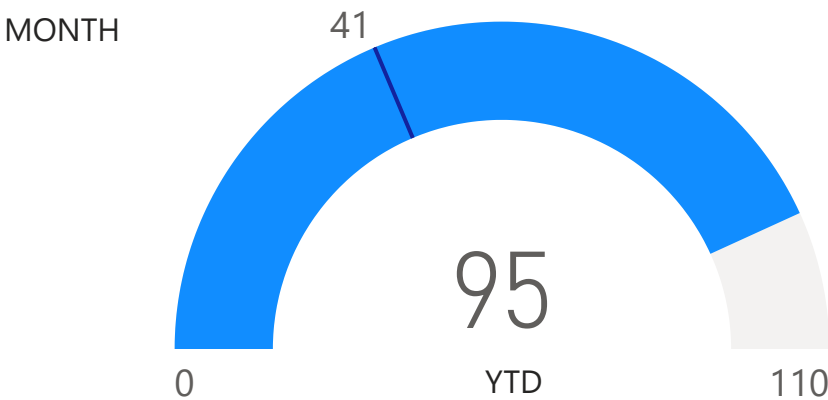
Fire Hydrants



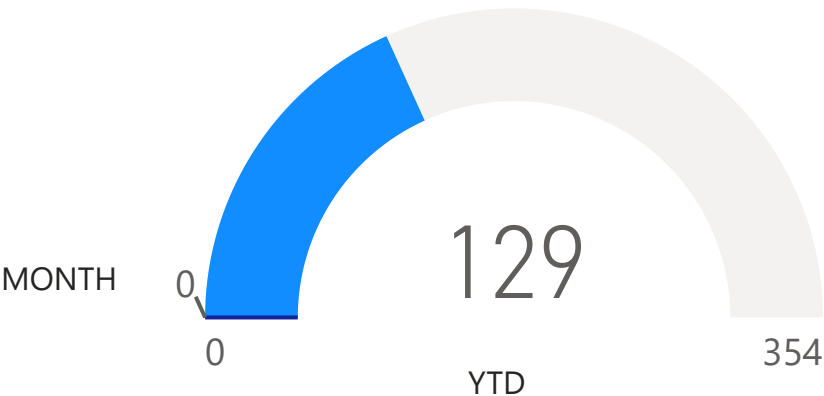
Distribution Hydrants Maintained



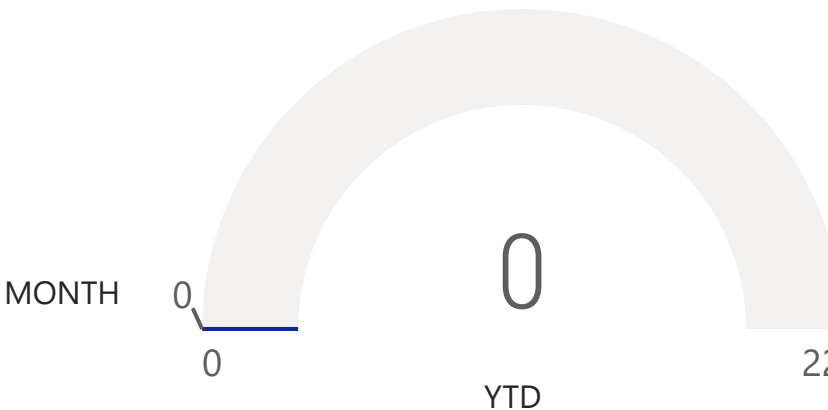
Arterial Hydrants Maintained



Distribution Hydrants Painted



Arterial Hydrants Painted



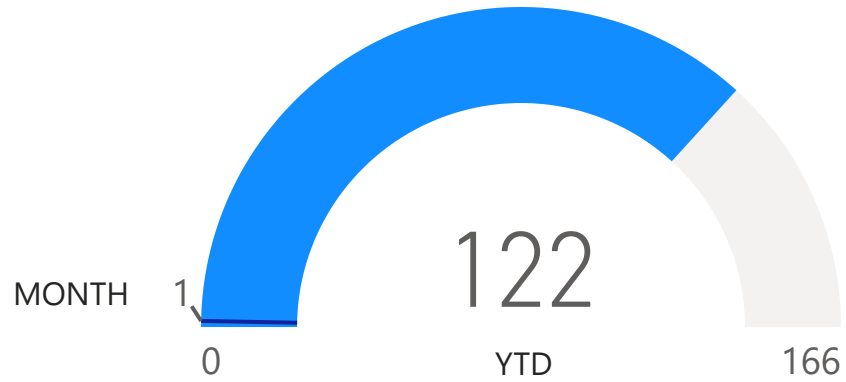
| Asset | Month | YTD |
|-------------------|-------|-----|
| Hydrants Repaired | 3 | 16 |
| Hydrants Replaced | 0 | 21 |
| Total | 3 | 37 |

Note:

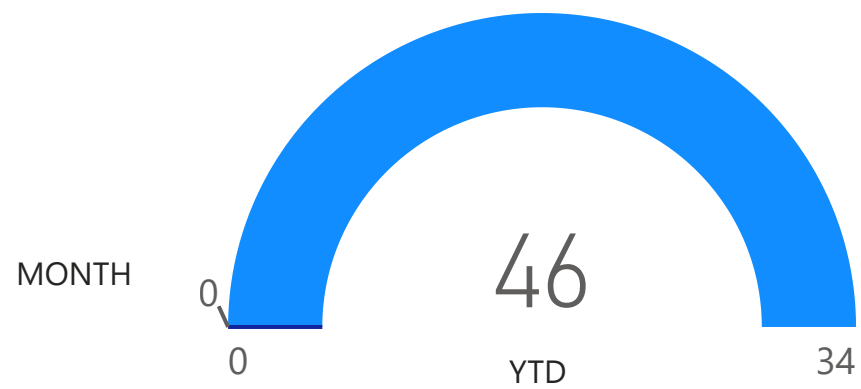
- 1. The hydrant program strives to maintain all distribution hydrants every two years and arterial hydrants every year. Goals shown on this page represent that for the calendar year (i.e., total number of distribution hydrants divided by two).
- 2. The hydrant program strives to paint all hydrants every five years. Goals shown on this page represent that for the calendar year (i.e., total number of hydrants divided by five).

Water Appurtenances

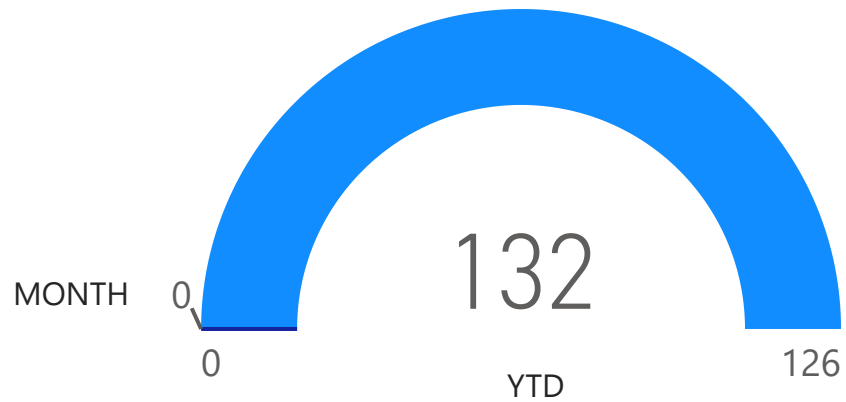
Air Vacs Maintained



PRVs Maintained

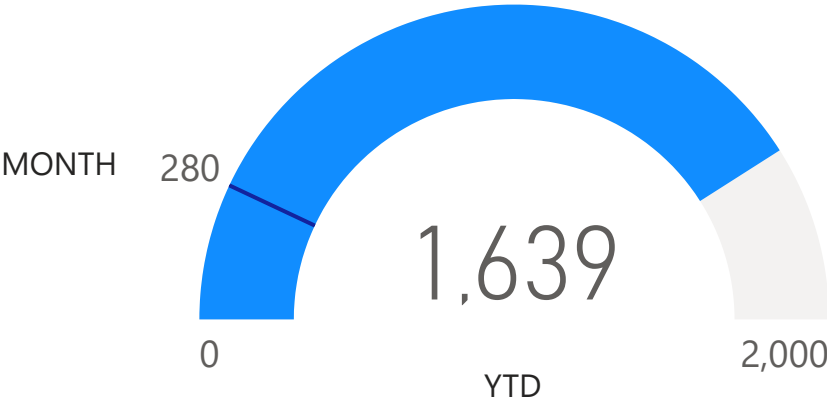


Blow Offs Flushed



Water Distribution System

Leak Detection Survey



Asset

Month YTD

| | | |
|--|-----|-------|
| Main Line Repairs | 0 | 2 |
| Service Line Repairs | 2 | 12 |
| Service Line Replacement | 4 | 28 |
| Water Pump Motor Services | 0 | 13 |
| Water Pump Services | 0 | 13 |
| Water Reservoir and Pump Station Inspections | 100 | 1,194 |



System Flushing
gallons

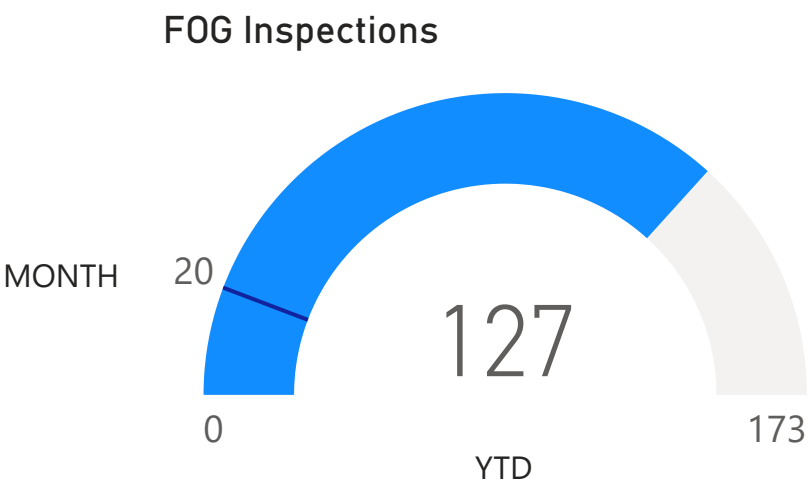
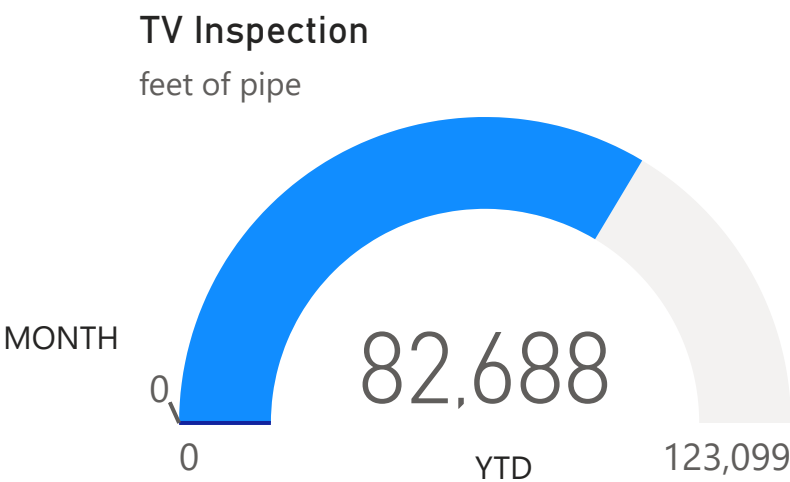
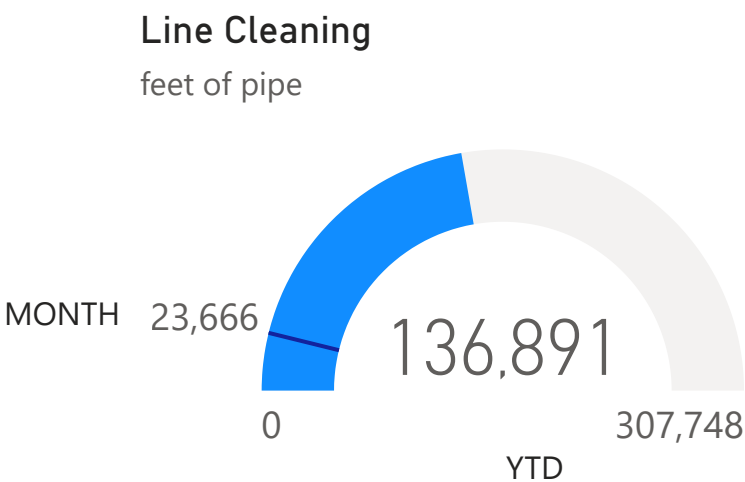
0
Month



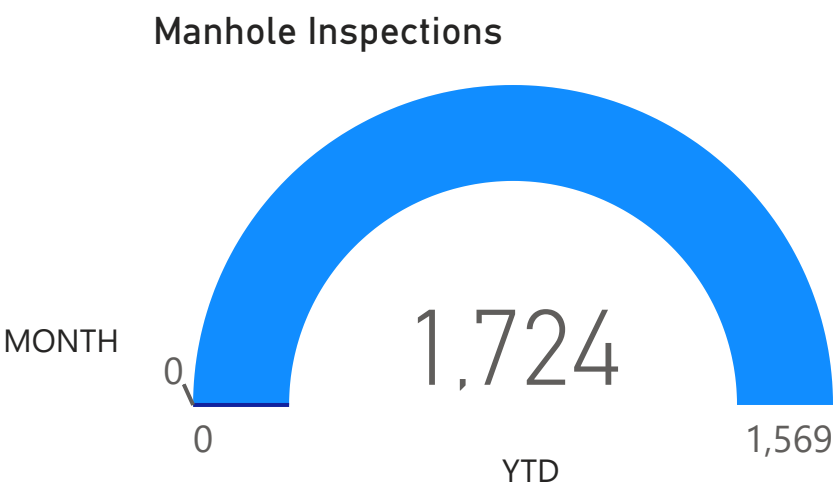
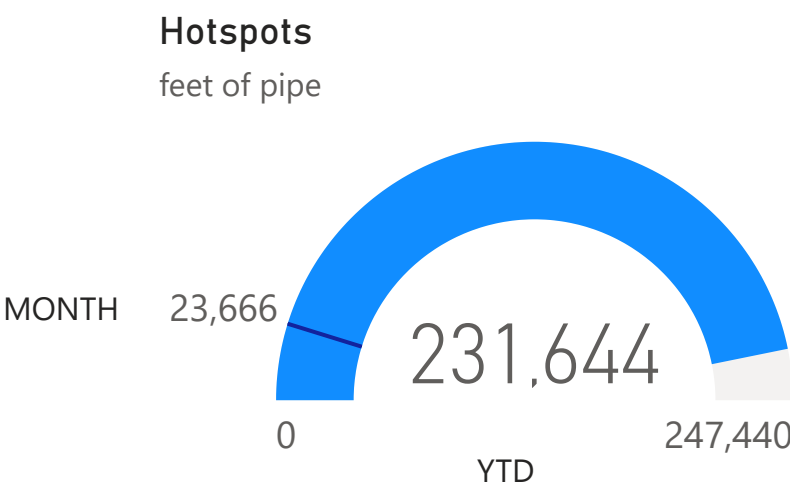
System Flushing
gallons

1,000K
YTD

Collection System



| Asset | Month | YTD |
|------------------------------|-------|--------|
| Industrial Waste Inspections | 0 | 174 |
| Lift Station Inspections | 82 | 987 |
| Manhole Repairs | 0 | 6 |
| Odor Complaints | 0 | 4 |
| Root Cutting, feet of pipe | 5,434 | 64,366 |
| Root Foaming, feet of pipe | 0 | 1,409 |
| Sewer Mainline Repairs | 0 | 0 |
| Sewer Pump/Motor Maintenance | 3 | 49 |
| Sewer Service Line Repairs | 0 | 2 |
| Wet Well Cleaning | 5 | 37 |



Note:

- 1. The line cleaning objective is a two year cycle to clean the entire system. The current cycle began on 7/1/2024.
- 2. The TV inspection objective is a five year cycle to inspect the entire system. The current cycle began on 1/25/2021.

**EL TORO WATER DISTRICT
UNAUTHORIZED DISCHARGE SUMMARY
YEAR OF 2024**

| DATE | PUBLIC / PRIVATE | SPILL TYPE | LOCATION | REASON | IMMEDIATE CORRECTIVE MEASURES | POST-INCIDENT PREVENTIVE MEASURES | RWQCB | DISCHARGED TO | SPILL VOLUME (PUBLIC) Gallons | | SPILL VOLUME (PRIVATE) Gallons | | REGULATORY NOTIFICATION AND RESPONSE |
|------------------------|------------------|----------------------|----------|---------------------------------|-------------------------------|-----------------------------------|-------|---------------|----------------------------------|--------|-----------------------------------|--------|--------------------------------------|
| | | | | | | | | | CONTAINED | SPILED | CONTAINED | SPILED | |
| January | No Spill | | | | | | | | | | | | |
| February | No Spill | | | | | | | | | | | | |
| March | No Spill | | | | | | | | | | | | |
| April | No Spill | | | | | | | | | | | | |
| May | No Spill | | | | | | | | | | | | |
| June | No Spill | | | | | | | | | | | | |
| July | No Spill | | | | | | | | | | | | |
| August | No Spill | | | | | | | | | | | | |
| September | No Spill | | | | | | | | | | | | |
| October | No Spill | | | | | | | | | | | | |
| November | No Spill | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| LEGEND | | | | | | | | | 0 | 0 | 0 | 0 | |
| S.DC = San Diego Creek | | RES. = Residential | | R.S. = Rocks | | | | | | | | | |
| S.D. = Storm Drain | | C. = Commercial | | C.W.D. = Calcium Water Deposits | | | | | | | | | |
| A.C. = Aliso Creek | | S.B. = Siphon | | B.P. = Broken Pipe | | | | | | | | | |
| G.B. = Grease Blockage | | P.F. = Power Failure | | U.W. = Untreated Water | | | | | | | | | |
| S. = Sticks | | P. = Paper | | R. = Roots | | | | | | | | | |

MICROBIOLOGICAL MONITORING

PRESSURE ZONE LEGEND

| | | | |
|-------------------|--------------|---------------------|-----------------------|
| GRAVITY 570 | LOW 1 484 | SPARTAN 620-710 | MID 630 |
| SHENANDOAH 894 | LOW 2 465 | REDUCED HIGH 537 | ULTRA HIGH 800-920 |
| CHERRY 770-815 | LOW 3 409 | HIGH 645-720 | R-6 620 |

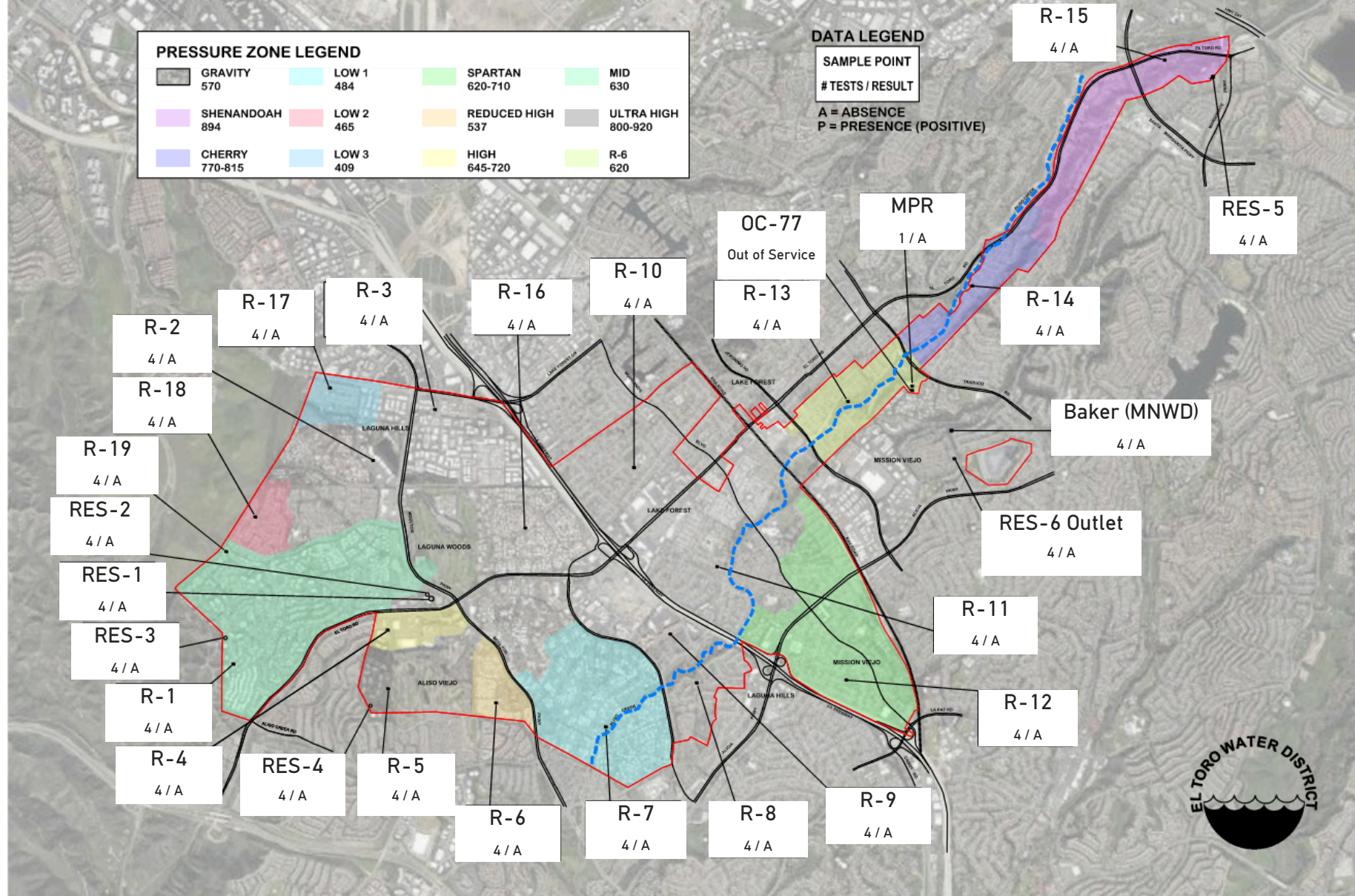
DATA LEGEND

SAMPLE POINT

TESTS / RESULT

A = ABSENCE

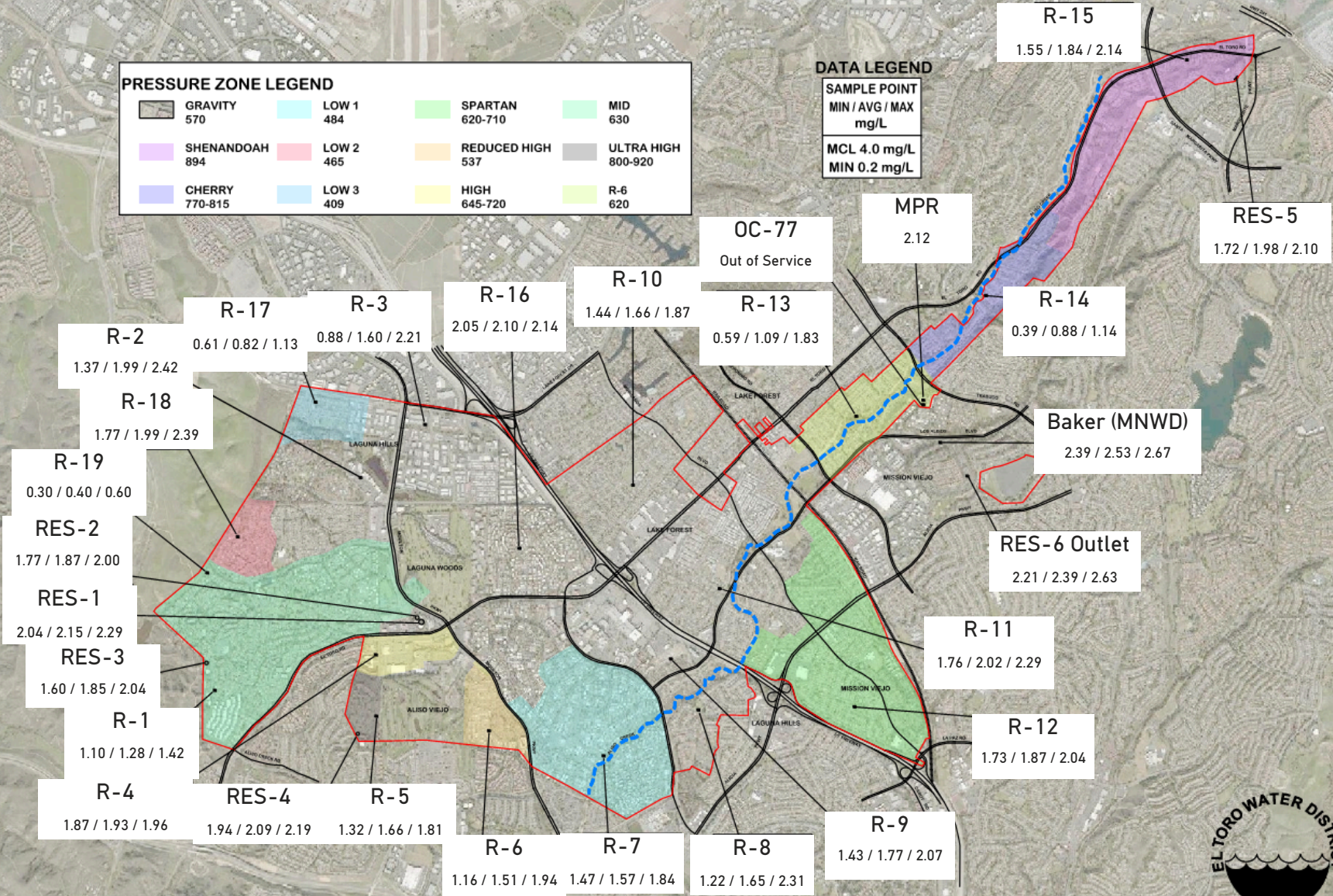
P = PRESENCE (POSITIVE)



CHLORINE RESIDUAL MONITORING

| PRESSURE ZONE LEGEND | | | |
|----------------------|--------------|---------------------|-----------------------|
| GRAVITY 570 | LOW 1 484 | SPARTAN 620-710 | MID 630 |
| SHENANDOAH 894 | LOW 2 465 | REDUCED HIGH 537 | ULTRA HIGH 800-920 |
| CHERRY 770-815 | LOW 3 409 | HIGH 645-720 | R-6 620 |

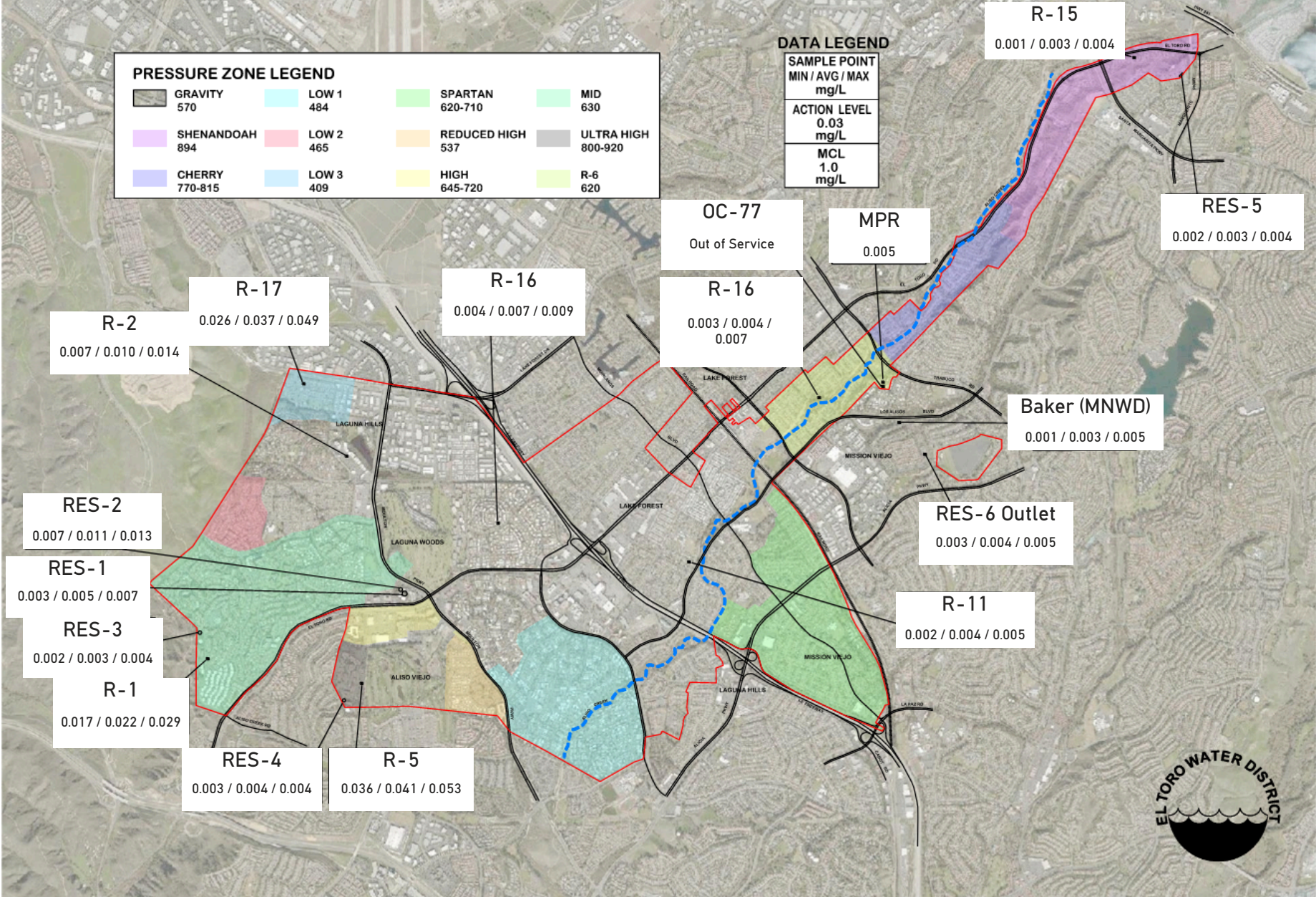
| DATA LEGEND | |
|--------------|-------------------------|
| SAMPLE POINT | MIN / AVG / MAX mg/L |
| MCL | 4.0 mg/L |
| MIN | 0.2 mg/L |



NITRITE MONITORING

| PRESSURE ZONE LEGEND | | | |
|----------------------|--------------|---------------------|-----------------------|
| GRAVITY 570 | LOW 1 484 | SPARTAN 620-710 | MID 630 |
| SHENANDOAH 894 | LOW 2 465 | REDUCED HIGH 537 | ULTRA HIGH 800-920 |
| CHERRY 770-815 | LOW 3 409 | HIGH 645-720 | R-6 620 |

| DATA LEGEND | |
|--------------|-------------------------|
| SAMPLE POINT | MIN / AVG / MAX mg/L |
| ACTION LEVEL | 0.03 mg/L |
| MCL | 1.0 mg/L |



**EL TORO WATER DISTRICT
MONTHLY POTABLE WATER QUALITY REPORT**

The quality and safety of drinking water in the U.S. is regulated by the federal government through the U.S. Environmental Protection agency (USEPA). In California, those standards are enforced by the California Department of Public Health (CDPH). Water Quality parameters must meet both primary and secondary water quality standards as established by the CDPH.

PRIMARY STANDARDS - are intended to protect public health against substances in the water that may be harmful to humans if consumed for long periods of time.

SECONDARY STANDARDS - are to ensure esthetic qualities of water such as taste, odor or clarity. Rather than its healthfulness, these standards govern substances that may influence consumer acceptance of water.

Given that 100% of ETWD's potable water resource is fully treated and delivered by Metropolitan Water District of southern California (MWDSC) through an enclosed and protected conveyance system, the majority of the State and federal primary and secondary source water quality monitoring requirements are performed by MWDSC. The District's physical responsibility for water quality monitoring is associated with the distribution system. To monitor the distribution system water quality the District utilizes both in house and outside lab services. Routine distribution analysis conforming to CDPH requirements is conducted for the following constituents:

- 1) **Microbiological** - The number of microbiological samples and the frequency of analysis during the month is based on the population and/or service connections served. Utilizing a population of 50,000, the CDPH requires that 20 "representative" samples be collected and analyzed for coliform bacteria. The objective is to maintain water quality that is absent of coliform bacteria which is a general indicator for the existence of fecal coliform.
- 2) **Chlorine Residual** - The chlorine residual monitoring is performed in conjunction with the microbiological monitoring. The CDPH requirement for treated surface water mandates that the distribution system maintain a "detectable" residual. The number of and frequency of sampling is determined utilizing the same formula applied to microbiological requirements. At a minimum, we are obligated to collect and analyze for chlorine residual each time we collect the representative microbiological samples. Per EPA Disinfectants & Disinfection Byproduct Rule (D/DBP), which was effective January 2002, requires quarterly reporting for all sampling.
- 3) **TTHM & HAA5 Stage 2 DBPR Compliance** The U.S. Environmental Protection Agency (EPA) published the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) on January 4, 2006. The Stage 2 DBPR builds on existing regulations by requiring water systems to meet disinfection byproduct (DBP)* maximum contaminant levels (MCLs) at each monitoring site in the distribution system to better protect public health. The Stage 2 DBP rule is intended to reduce potential cancer and reproductive and developmental health risks from disinfection byproducts (DBPs) in drinking water, which form when disinfectants are used to control microbial pathogens. This final rule strengthens public health protection for customers of systems that deliver disinfected water by requiring such systems to meet maximum contaminant levels as an average at each compliance monitoring location (instead of as a system-wide average as in previous rules) for two groups of DBPs, trihalomethanes (TTHM) and five haloacetic acids (HAA5). The rule targets systems with the greatest risk and builds incrementally on existing rules. This regulation will reduce DBP exposure and related potential health risks and provide more equitable public health protection. The Stage 2 DBPR is being released simultaneously with the Long Term 2 Enhanced Surface Water Treatment Rule to address concerns about risk tradeoffs between pathogens and DBPs.

The mandatory requirement under the Stage 2 DBP rule, known as an Initial Distribution System Evaluation (IDSE) was completed by ETWD in 2008 and a Stage 2 monitoring plan has been approved by CDPH. Full Stage 2 compliance begins in 2012. The IDSE identified the locations with high disinfection byproduct concentrations. These locations will then be used by the District as the 8 sampling sites for Stage 2 DBP rule compliance monitoring. Compliance with the maximum contaminant levels for two groups of disinfection byproducts (TTHM and HAA5) will be calculated for each monitoring location in the distribution system. This approach, referred to as the locational running annual average (LRAA), differs from current requirements, which determine compliance by calculating the running annual average of samples from all monitoring locations across the system. The Stage 2 DBP rule also requires each system to determine if they have exceeded an operational evaluation level, which is identified using their compliance monitoring results. The operational evaluation level provides an early warning of possible future MCL violations, which allows the system to take proactive steps to remain in compliance. A system that exceeds an operational evaluation level is required to review their operational practices and submit a report to the state that identifies actions that may be taken to mitigate future high DBP levels, particularly those that may jeopardize their compliance with the DBP MCLs.

- 4) **Physical Quality** - Physical Quality analysis is associated with the esthetic qualities of the finished water. Primarily, we are performing analysis for taste, odor and Turbidity (Clarity). In accordance with CDPH requirements, the District collects a minimum of 15 samples per month.
- 5) **Nitrites** - Although the chloramine disinfection process has been effective in controlling TTHM levels, it requires increased monitoring and adjustment as a result of its susceptibility to the Nitrification process. Nitrification is a biological process caused by naturally occurring ammonia oxidizing bacteria. Nitrification in chloraminated drinking water can have various adverse impacts on water quality, the most serious of which is the loss of total chlorine residual which is required by the CDPH and the subsequent potential to increase bacteria-logical activity within the finished or treated water system. MWD has developed an effective nitrification monitoring and prevention program which ETWD staff have adopted and incorporated into the District's daily water quality monitoring and action plan. The number and frequency of this type of monitoring is not currently regulated by CDPH. Staff monitor the level of nitrites in source water, reservoirs and the distribution system daily and weekly in conjunction with the microbiological and chlorine sampling program. A nitrite level of between 0.015 and 0.030 would signal an alert. > 0.030 would require action such as the addition of chlorine to produce a chloramine residual.

| EL TORO WATER DISTRICT MONTHLY POTABLE WATER QUALITY ANALYSIS | | | | | |
|--|--------------------|------------|--------------------|-------------|---------|
| MONTH: | | November | | YEAR : 2024 | |
| CONSTITUENT ANALYSIS | | INSIDE LAB | | OUTSIDE LAB | |
| | MCL | NO. | RESULTS | NO. | RESULTS |
| 1 Microbiological | Pres/Absence | 110 | Absence | | |
| 2 Chlorine (ppm) In Field | Detectable Resid | 101 | Average = 1.72 ppm | | |
| 3 TTHM (ppb) (Stage 2) | 80 ppb | | | | |
| 3 HAA5 (ppb) (Stage 2) | 60 ppb | | | | |
| 4 Physical Quality: | | | RANGE | | |
| Turbidity (ppm) | 5 NTU | 20 | 0.07 to 0.17 | | |
| Odor | 3 Units | 20 | ND<1 | | |
| Color | 15 Units | 20 | ND<5 | | |
| Temperature | No standard | 20 | 70°F To 78°F | | |
| 5 Nitrite (Alert/Action level) ppm | 0.002 to 0.179 ppm | 101 | 0.000 to 0.053 | | |

To ensure water quality compliance, the District annually performs approximately 8,750 water quality analytical evaluations of the samples collected from the distribution system.

Abbreviations:

| | |
|-----------------------|---|
| RES | Indicates that the nitrification was isolated to a reservoir and treated |
| ND | None detected |
| Pres/Absence | Presence (P) or Absence (A) related to a positive or negative bacteriological result |
| MCL | Maximum Contaminant Level |
| NTU | Nephelometric Turbidity Units, a measure of the suspended material in the water |
| ppm | Parts per million |
| ppb | Parts per billion |
| Total Coliform | No more than 5% of the monthly samples may be total coliform-positive |
| N/A | Not available |

4th Quarter Compliance Reports

November Monthly Reports

| | | |
|---|--|---|
| | | |
| October's Surface Water Treatment (Bactis) | Due November 10th Submitted November 5th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |
| Octobers's Revised Total Coliform Monitoring (Bactis) | Due November 10th Submitted November 5th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |
| | | |
| October's Self-Monitoring Report for Recycled Water | Due November 30th Submitted November 20th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |
| October's Self-Monitoring Report for Planned Discharges | Due November 30th Submitted November 5th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |

December Monthly Reports

| | | |
|--|---|---|
| | | |
| November's Surface Water Treatment (Bactis) | Due December 10th Submitted December 6th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |
| November's Revised Total Coliform Monitoring (Bactis) | Due December 10th Submitted December 6th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |
| | | |
| November's Self-Monitoring Report for Recycled Water | Due December 30th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |
| November's Self-Monitoring Report for Planned Discharges | Due December 10th Submitted December 6th | Sent to Region 8, Dennis Cafferty and Scott Hopkins |

Staff Training Log 2024



Third Quarter

| Training Topic | Duration/Total Hrs.Completed | Frequency | Modality | Participants |
|---------------------------------|------------------------------|-----------|-----------|-----------------------|
| Safety Tailgate Meeting | .5 hours / 165.5 hours | Weekly | In Person | Field Staff/Completed |
| Low Voltage Electrical Safety | 1 Hour / 34 hours | Annual | Online | Field Staff/Completed |
| Working in Extreme Temperatures | 1 Hour / 35 hours | Annual | Online | Field Staff/Completed |
| General Office Ergonomics | 1 Hour / 14 hours | Annual | Online | Field Staff/Completed |
| Health and Wellness | 1 Hour / 14 hours | Annual | Online | Field Staff/Completed |
| HAZWOPER | 8 Hours / 280 hours | Annual | In Person | Field Staff/Completed |
| Total Hrs Completed- 542.5 | | | | |

Fourth Quarter

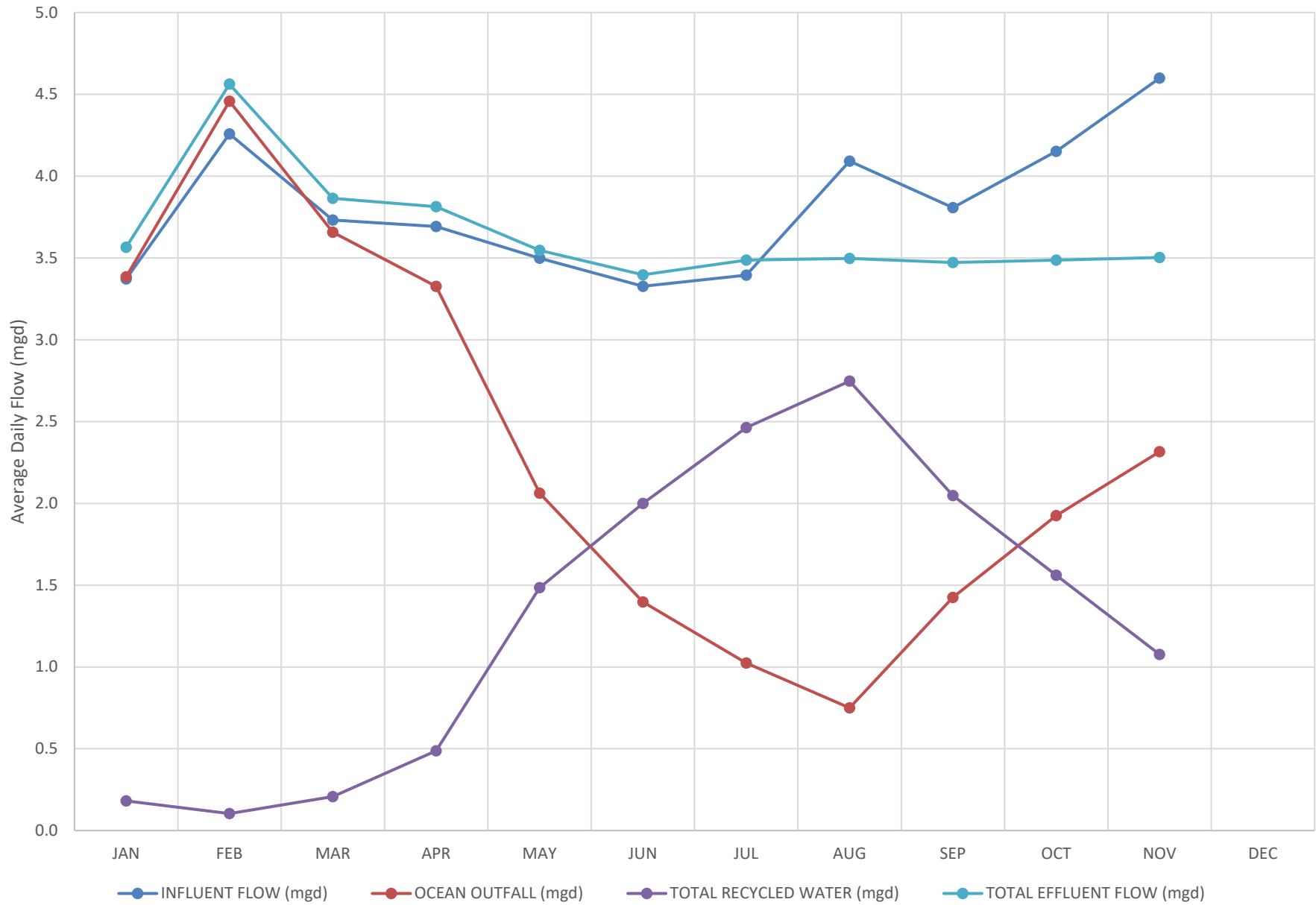
| Training Topic | Duration/Total Hrs.Completed | Frequency | Modality | Participants |
|-----------------------------------|------------------------------|-----------|-----------|--------------------|
| Safety Tailgate Meeting | .5 hours / 158 hours | Weekly | In Person | Field Staff/Weekly |
| Indoor Air Quality (1379) | 1 Hour / 29 hours | Annual | Online | All Staff/Assigned |
| Building Evac. & Emergency (1358) | 1 Hour / 28 hours | Annual | Online | All Staff/Assigned |
| Confined Space Entry/Rescue | 8 hours / 208 Hours | Annual | In Person | Complete |
| SCBA | 1 hour / 21 Hours | Annual | In Person | Complete |
| Total Hrs Completed- 444.0 | | | | |

EL TORO WATER DISTRICT

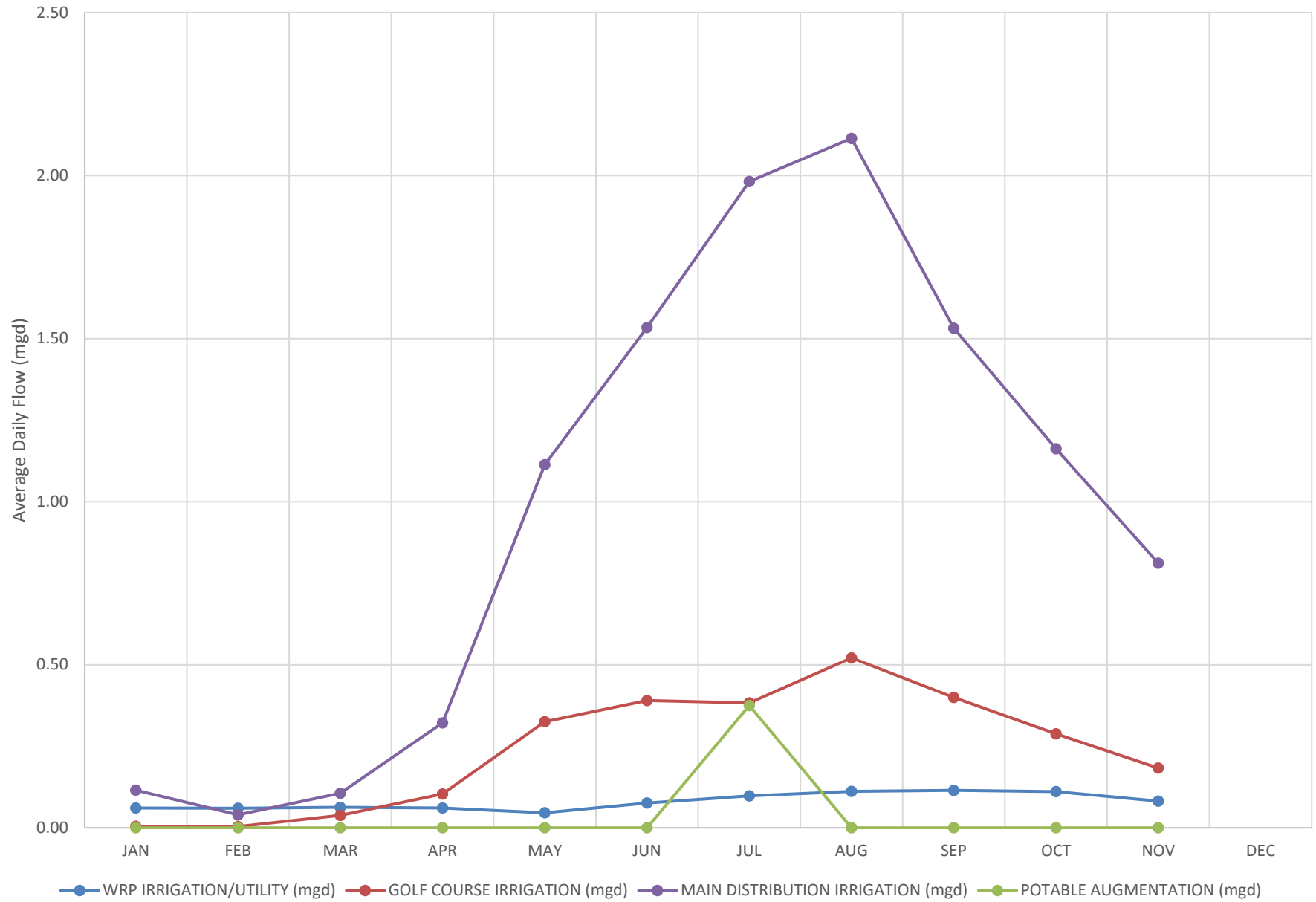
OPERATIONAL DATA FROM WATER RECYCLING PLANT

[illegible]

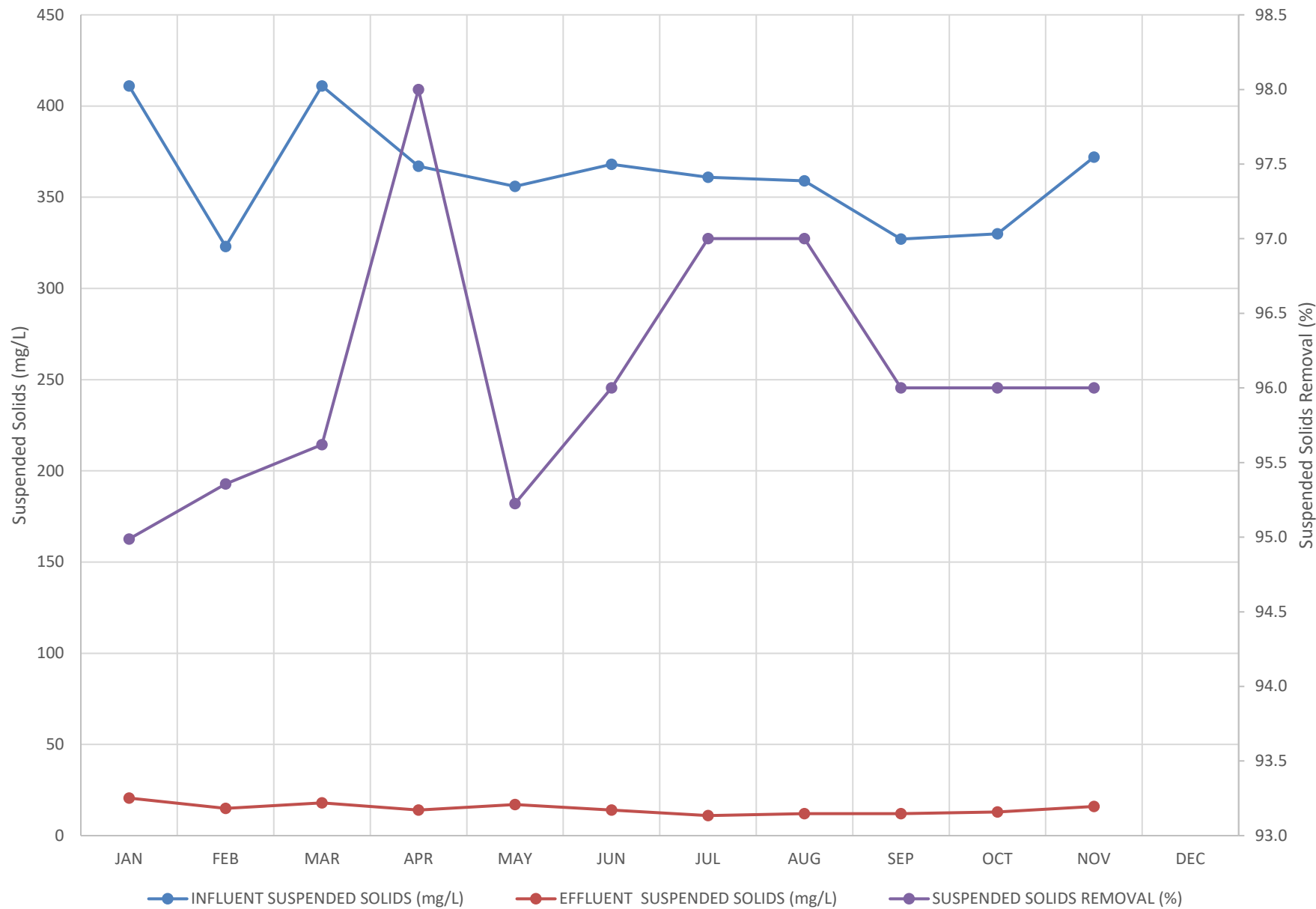
WRP Flow Trends



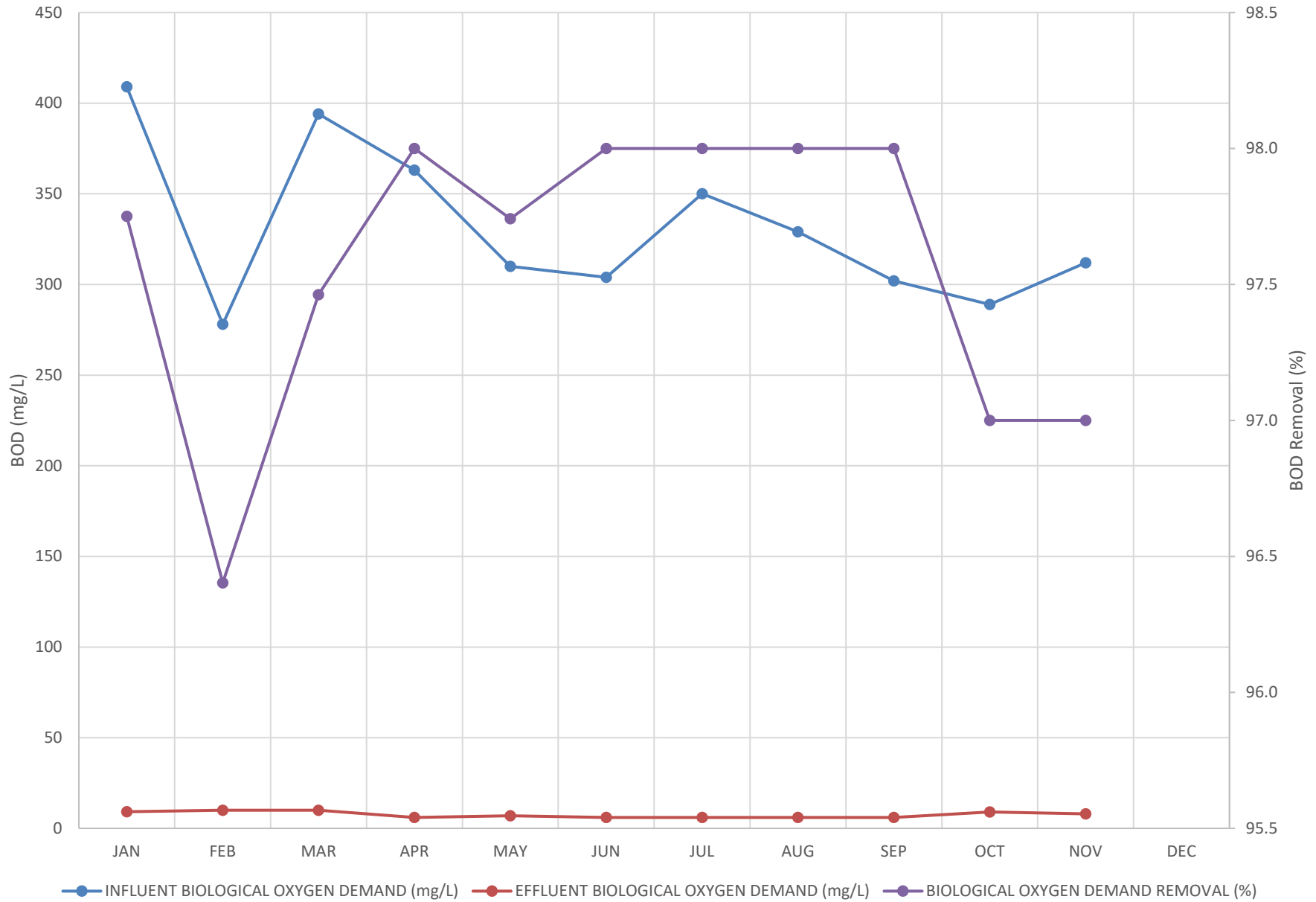
Recycled Water Flow Trends



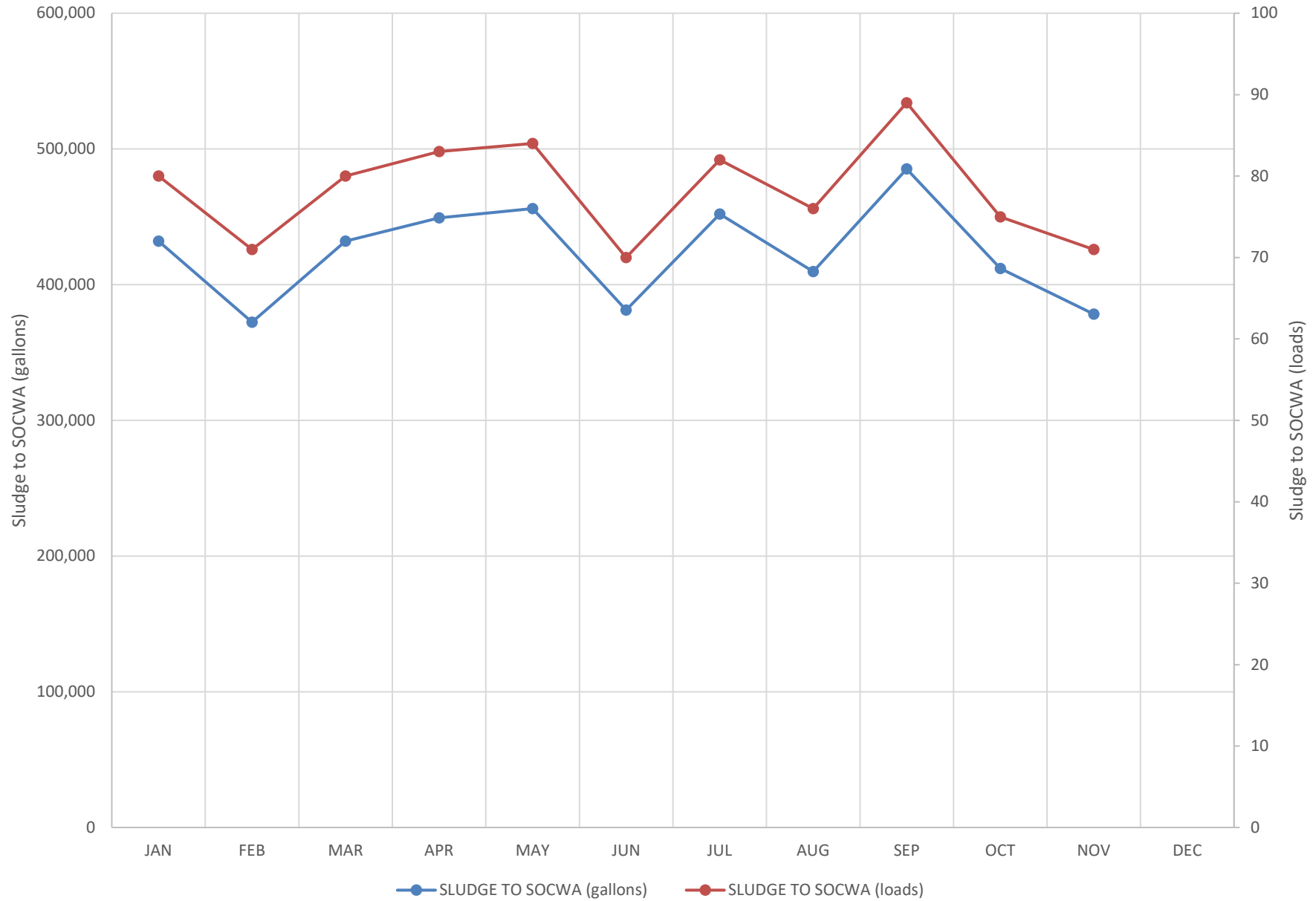
Suspended Solids Trends



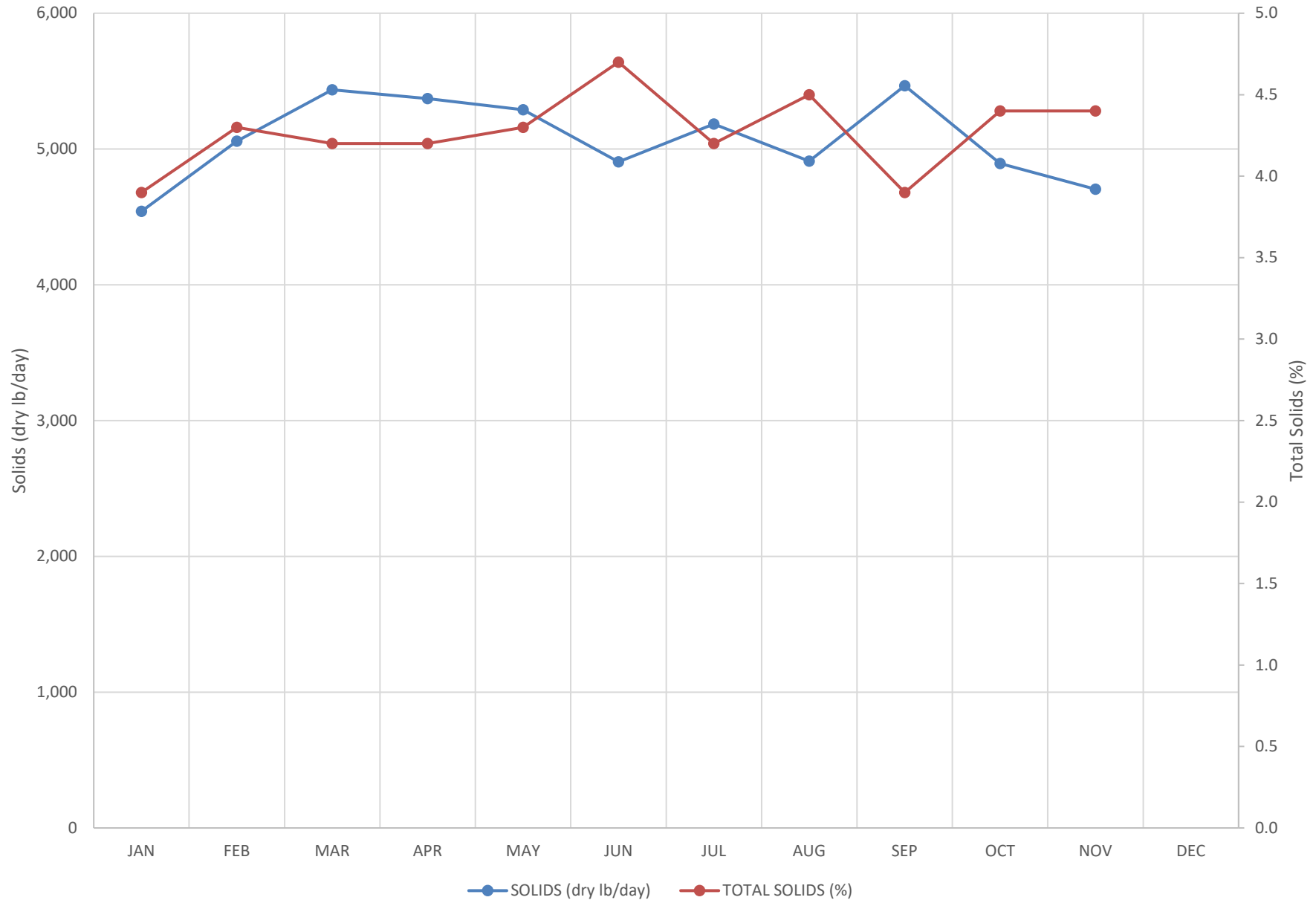
Biological Oxygen Demand (BOD) Trends



SOCWA Hauling Trends



Solids Trends



WRP BATTERY STORAGE SYSTEM

MONTHLY REPORT

November 2024



| YEAR | BILLING PERIOD | BILL SAVINGS | NET SAVINGS | YEAR TOTAL |
|------|---------------------|---------------|---------------|--------------|
| 1 | 08/13/19 - 09/12/19 | \$ 5,529.24 | \$ 3,939.24 | |
| | 09/12/19 - 10/11/19 | \$ 2,556.42 | \$ 966.42 | |
| | 10/11/19 - 11/13/19 | \$ (471.94) | \$ (2,061.94) | |
| | 11/13/19 - 12/13/19 | \$ 168.96 | \$ (1,421.04) | |
| | 12/13/19 - 01/14/20 | \$ (2,149.49) | \$ (3,739.49) | |
| | 01/14/20 - 02/12/20 | \$ 989.24 | \$ (600.76) | |
| | 02/12/20 - 03/13/20 | \$ 397.27 | \$ (1,192.73) | |
| | 03/13/20 - 04/13/20 | \$ (2,879.16) | \$ (4,469.16) | |
| | 04/13/20 - 05/13/20 | \$ 459.74 | \$ (1,130.26) | |
| | 05/13/20 - 06/12/20 | \$ 3,613.71 | \$ 2,023.71 | |
| | 06/12/20 - 07/15/20 | \$ 5,171.20 | \$ 3,581.20 | |
| | 07/15/20 - 08/13/20 | \$ 5,783.19 | \$ 4,193.19 | |
| | | | | \$ 88.38 |
| 2 | 08/13/20 - 09/14/20 | \$ 1,727.18 | \$ 137.18 | |
| | 09/14/20 - 10/14/20 | \$ 1,142.91 | \$ (447.09) | |
| | 10/14/20 - 11/13/20 | \$ 993.16 | \$ (596.84) | |
| | 11/13/20 - 12/15/21 | \$ 1,814.40 | \$ 224.40 | |
| | 12/15/20 - 01/14/21 | \$ 252.77 | \$ (1,337.23) | |
| | 01/14/21 - 02/12/21 | \$ 2,598.74 | \$ 1,008.74 | |
| | 02/12/21 - 03/16/21 | \$ 2,545.66 | \$ 955.66 | |
| | 03/16/21 - 04/14/21 | \$ 442.16 | \$ (1,147.84) | |
| | 04/14/21 - 05/13/21 | \$ 4,658.68 | \$ 3,068.68 | |
| | 05/13/21 - 06/14/21 | \$ 5,828.63 | \$ 4,238.63 | |
| | 06/14/21 - 07/14/21 | \$ 7,090.27 | \$ 5,500.27 | |
| | 07/14/21 - 08/12/21 | \$ 11,656.05 | \$ 10,066.05 | |
| | | | | \$ 21,670.61 |
| 3 | 08/12/21 - 09/13/21 | \$ 3,251.24 | \$ 1,661.24 | |
| | 09/13/21 - 10/13/22 | \$ 4,854.74 | \$ 3,264.74 | |
| | 10/13/21 - 11/12/21 | \$ 1,835.55 | \$ 245.55 | |
| | 11/12/21 - 12/14/21 | \$ 1,953.12 | \$ 363.12 | |
| | 12/14/21 - 01/13/22 | \$ (624.65) | \$ (2,214.65) | |
| | 01/13/22 - 02/11/22 | \$ 40.42 | \$ (1,549.58) | |
| | 02/11/22 - 03/15/22 | \$ 647.37 | \$ (942.63) | |
| | 03/15/22 - 04/13/22 | \$ 2,556.61 | \$ 966.61 | |
| | 04/13/22 - 05/13/22 | \$ 92.84 | \$ (1,497.16) | |
| | 05/13/22 - 06/14/22 | \$ 8,377.93 | \$ 6,787.93 | |
| | 06/14/22 - 07/14/22 | \$ 20,486.96 | \$ 18,896.96 | |
| | 07/14/22 - 08/12/22 | \$ 6,915.19 | \$ 5,325.19 | |
| | | | | \$ 31,307.32 |

WRP BATTERY STORAGE SYSTEM

MONTHLY REPORT

November 2024



| YEAR | BILLING PERIOD | BILL SAVINGS | NET SAVINGS | YEAR TOTAL |
|------|----------------------|---------------|---------------|--------------|
| 4 | 08/12/22 - 09/13/22 | \$ 8,171.50 | \$ 6,581.50 | |
| | 09/13/22 - 10/13/22 | \$ 2,943.86 | \$ 1,353.86 | |
| | 10/13/22 - 11/14/22 | \$ 2,083.92 | \$ 493.92 | |
| | 11/14/22 - 12/14/22 | \$ 1,960.66 | \$ 370.66 | |
| | 12/14/22 - 01/12/23 | \$ (3,571.97) | \$ (5,161.97) | |
| | 01/12/23 - 02/11/23 | \$ 311.28 | \$ (1,278.72) | |
| | 02/11/23 - 03/14/23 | \$ 2,755.08 | \$ 1,165.08 | |
| | 03/14/23 - 04/12/23 | \$ 1,994.90 | \$ 404.90 | |
| | 04/12/23 - 05/11/23 | \$ (558.88) | \$ (2,148.88) | |
| | 05/11/23 - 06/12/23 | \$ (487.47) | \$ (2,077.47) | |
| | 06/12/23 - 07/13/23 | \$ 21,318.66 | \$ 19,728.66 | |
| | 07/13/23 - 08/11/23 | \$ 3,262.26 | \$ 1,672.26 | |
| | | | | \$ 21,103.80 |
| 5 | 08/11/23 - 09/12/23 | \$ 1,749.86 | \$ 159.86 | |
| | 09/12/23 - 10/11/23 | \$ 16,350.56 | \$ 14,760.56 | |
| | 10/11/23 - 11/09/23 | \$ 4,659.23 | \$ 3,069.23 | |
| | 11/09/23 - 12/12/23 | \$ 9,302.30 | \$ 7,712.30 | |
| | 12/12/23 - 01/11/24 | \$ 5,204.44 | \$ 3,614.44 | |
| | 01/11/24 - 02/12/24 | \$ (828.52) | \$ (2,418.52) | |
| | 02/14/24 - 03/13/24 | \$ (2,433.90) | \$ (4,023.90) | |
| | 03/13/24 - 04/12/24 | \$ 2,204.14 | \$ 614.14 | |
| | 04/12/24 - 05/13/24 | \$ (37.79) | \$ (1,627.79) | |
| | 05/13/24 - 6/12/2024 | \$ 6,939.57 | \$ 5,349.57 | |
| | 06/12/24 - 7/15/2024 | \$ 7,871.04 | \$ 6,281.04 | |
| | 07/16/24 - 8/13/2024 | \$ (308.78) | \$ (1,898.78) | |
| | | | | \$ 31,592.15 |

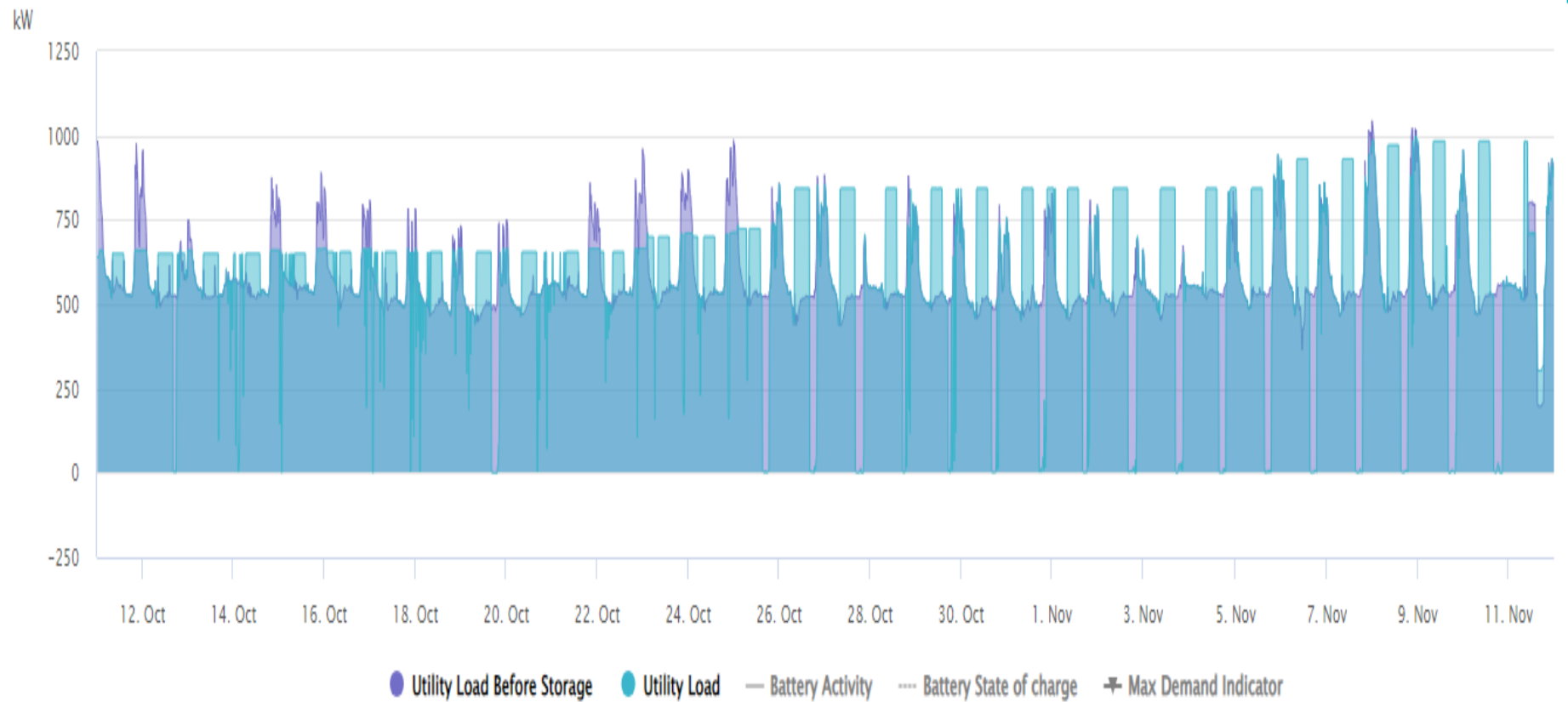
TOTAL \$ **201,162.26** \$ **105,762.26**

November 2024



| YEAR | BILLING PERIOD | BILL SAVINGS | NET SAVINGS | YEAR TOTAL |
|------|-----------------------|---------------|-------------|---------------|
| 6 | 8/13/2024-9/12/2024 | \$ 5,410.44 | \$ 3,820.44 | |
| | 9/12/2024-10/11/2024 | \$ 8,270.47 | \$ 6,680.47 | |
| | 10/11/2024-11/12/2024 | \$ 3,470.89 | \$ 1,880.89 | |
| | | | | |
| | | | | |
| | | | | |
| | TOTAL | \$ 419,476.32 | | \$ 223,906.32 |

October 12- November 11



Sewerage Treatment Plant



23542 Moulton Pkwy, Laguna Woods, CA 92637

Savings Report - 2024-11

Oct 11, 2024 - Nov 12, 2024

SCE TOU 8 Option D (< 2kV)

| Demand Charges | Before Storage | | After Storage | | Savings | |
|--|----------------|-------------|---------------|-------------|---------|------------|
| Facilities Related - Distribution | 1,044kW | \$21,592.75 | 999kW | \$20,659.85 | 45kW | \$932.90 |
| Facilities Related - Transmission | 1,044kW | \$4,594.20 | 999kW | \$4,395.71 | 45kW | \$198.49 |
| Time Related - Distribution - Winter Mid-Peak | 1,005kW | \$3,609.51 | 884kW | \$3,174.82 | 121kW | \$434.69 |
| Time Related - Utility Retained Generation - Winter Mid-Peak | 1,005kW | \$5,851.63 | 884kW | \$5,146.92 | 121kW | \$704.71 |
| Sub-total | | \$35,648.09 | | \$33,377.30 | | \$2,270.78 |

| Energy Charges | Before Storage | | After Storage | | Savings | |
|---|----------------|-------------|---------------|-------------|-------------|--------------|
| Competition Transition Charge | 445,004kWh | \$(124.60) | 450,314kWh | \$(126.09) | (5,310)kWh | \$1.49 |
| Competition Transition Charge (URG Component) | 445,004kWh | \$124.60 | 450,314kWh | \$126.09 | (5,310)kWh | \$(1.49) |
| Distribution - Winter Mid-Peak | 92,690kWh | \$1,476.56 | 55,293kWh | \$880.82 | 37,397kWh | \$595.73 |
| Distribution - Winter Off-Peak | 218,483kWh | \$3,163.63 | 211,538kWh | \$3,063.07 | 6,945kWh | \$100.56 |
| Distribution - Winter Super Off-Peak | 133,831kWh | \$1,825.46 | 183,483kWh | \$2,502.71 | (49,652)kWh | \$(677.25) |
| Fixed Recovery Charge | 445,004kWh | \$511.75 | 450,314kWh | \$517.86 | (5,310)kWh | \$(6.11) |
| New System Generation Charge | 445,004kWh | \$3,257.43 | 450,314kWh | \$3,296.30 | (5,310)kWh | \$(38.87) |
| Nuclear Decommissioning Charge | 445,004kWh | \$40.05 | 450,314kWh | \$40.53 | (5,310)kWh | \$(0.48) |
| Public Purpose Programs Charge | 445,004kWh | \$7,765.32 | 450,314kWh | \$7,857.98 | (5,310)kWh | \$(92.66) |
| PUC Reimbursement Fee | 445,004kWh | \$445.00 | 450,314kWh | \$450.31 | (5,310)kWh | \$(5.31) |
| State Tax | 445,004kWh | \$133.50 | 450,314kWh | \$135.09 | (5,310)kWh | \$(1.59) |
| Transmission | 445,004kWh | \$(17.80) | 450,314kWh | \$(18.01) | (5,310)kWh | \$0.21 |
| Utility Retained Generation - Winter Mid-Peak | 92,690kWh | \$6,917.48 | 55,293kWh | \$4,126.54 | 37,397kWh | \$2,790.94 |
| Utility Retained Generation - Winter Off-Peak | 218,483kWh | \$16,405.85 | 211,538kWh | \$15,884.37 | 6,945kWh | \$521.48 |
| Utility Retained Generation - Winter Super-Off-Peak | 133,831kWh | \$5,274.29 | 183,483kWh | \$7,231.06 | (49,652)kWh | \$(1,956.77) |
| Wildfire Fund Non-Bypassable Charge | 445,004kWh | \$2,496.47 | 450,314kWh | \$2,526.26 | (5,310)kWh | \$(29.79) |
| Sub-total | | \$49,695.01 | | \$48,494.91 | | \$1,200.10 |

| Other Monthly Charges | Before Storage | | After Storage | | Savings | |
|-----------------------|----------------|----------|---------------|----------|---------|------|
| Customer Charge | | \$460.86 | | \$460.86 | | \$ - |
| Sub-total | | \$460.86 | | \$460.86 | | \$ - |

| Total | Before Storage | | After Storage | | Savings | |
|-------|----------------|-------------|---------------|-------------|---------|------------|
| | | \$85,803.96 | | \$82,333.07 | | \$3,470.89 |

Note: The above data is is calculated by Genability using Stem meter data. Your actual utility bill may look different from the data displayed above due differences in the utility metered data and the Stem meter data. Some discrepancies are normal and to be expected. Stem will reconcile discrepancies by comparing the Genability calculations of ESS cost savings and total bill values with your utility bill after each of your performance guarantee true up terms and will make adjustments for outstanding differences.



STAFF REPORT

To: Board of Directors

Meeting Date: December 16, 2024

**From: Dennis Cafferty, General Manager
Hannah Ford, Director of Engineering**

Subject: Capital Project Status Report

I. Grit Chamber Rehabilitation

The project is nearly complete. The contractor, Kingmen Construction, Inc. (Kingmen) conducted an initial successful startup test with no problems.

Kingmen has completed the majority of the work on the final change order items. Kingmen will return to the site to adjust the installation of a pressure transmitter on December 16. Staff also identified a wiring problem in the air flow meter. Kingmen is in the process of correcting the wiring issue.

Following the replacement of the above defined punch list items, WRP staff will start the final seven-day start up test. Following a successful startup test, the project will be complete. It is anticipated that the project will be complete by the end of December.

Table 1 summarizes the project cost as percent complete. Kingmen's billings reflect work through November 2024. The change order cost for the recently completed change order work is anticipated to be approximately \$14,000. The total change order cost for the project was only approximately 3.3% of the original contract cost.

Table 1 – Grit Chamber Rehabilitation Project Schedule and Budget Status

| Construction Contract | Total | Earned to Date | Percent Complete |
|------------------------------|------------------------|-----------------------|-------------------------|
| Budget | \$825,318 ¹ | \$814,577 | 99% |

¹Includes Change Order No. 1 of \$10,418.04 and Change Order No. 2 of \$2,825.07.

II. New Warehouse

On December 10, the electrical issues with the existing cellular site meter pedestals were resolved and SCE energized the New Warehouse electrical panel. District staff are working on the final punchlist with the contractor, Dumarco, with the goal of completion by the end of the year.

Staff are working with Convergent Technologies to complete the security and fire monitoring system installation.

District staff continues coordinating with the Air Quality Management District (AQMD) in order for them to install a concrete pad, electrical duct bank, and equipment for the relocated air monitoring station. AQMD is working on final permitting with the City of Mission Viejo and anticipates completing construction of the new air monitoring station by the end of January 2025.

With the completion of the MWD work Staff will negotiate the cost sharing agreement with MWD and prepare to solicit bids for the paving restoration.

Table 2 shows project budget expenditure. Dumarc's billings reflect work through October 2024. Budget is nearly completely expended because most of the work is complete.

Table 2 – New Warehouse Project Budget Status

| Construction Contract | Total | Earned to Date | Percent Complete |
|-----------------------|--------------------------|----------------|------------------|
| Budget | \$2,091,222 ¹ | \$2,064,666 | 99% |

¹Includes Change Order Nos. 1, 2, 3, and 4 with a net credit of \$92,777.83.

III. Secondary Clarifier No. 3 Drive Replacement

District staff placed the purchase order for a new Secondary Clarifier No. 3 drive in October and anticipates delivery in January 2025. The recommendation for award of a construction contract for installation of the Clarifier drive is included in the December Engineering Committee Meeting agenda.

IV. Main Office Warehouse Drainage Improvement Project

Originally constructed in the 1960s, the District's wood frame Main Office Warehouse lacks proper drainage. The Main Office Warehouse houses a mechanic bay, inventory storage, and office space of three employees. A recent leak in the urinal adjacent to the office spaces resulted in water damage that the District is in the process of repairing. During the repairs associated with the urinal leak, the District discovered that the lack of proper drainage on the outside of the Main Office Warehouse caused termite damage and black mold growth.

The District contracted with Richard Brady and Associates, Inc. (Brady) to develop engineering design and a cost estimate to improve the drainage around the Main Office Warehouse in order to prevent further water damage in the office space area.

The design is complete and the project is out to bid. Staff anticipate bringing the construction contract to the Board for approval at the January Engineering Committee meeting. Brady estimates the construction cost for the drainage improvements to be approximately \$100,000.

V. Asset Management Program

District staff finalized the WRP asset management plan and now are focused on integration with the Computerized Maintenance Management System (CMMS). District staff conducted interviews with a short list of four vendors and are working to evaluate District staff preferences and negotiate costs for the top-ranking vendors. After evaluation, District staff will recommend implementation of CMMS at the WRP, where no CMMS is currently employed.

VI. System Wide Arc Flash and Coordination Study

The District is completing its review of the draft reports and identifying the plan to comply with all recommendations from the study. Staff have initiated certain mitigations as recommended by the study. Upon completion of review, the District will install arc flash labels on equipment and make recommended protective device trip settings.

VII. Headworks and Secondary Clarifier No. 1 Rehabilitation Project

The District reviewed the 90% design deliverable, conducted a workshop to review its contents with Carollo Engineers, Inc., (Carollo) staff, and returned comments on the design to Carollo. Carollo plans to wrap up the final design so that the District can place to bid in the first quarter of 2025.

VIII. Aliso Creek Lift Station Rehabilitation Project

The designer, Tetra Tech, submitted the 60% design deliverable, and District staff returned their review comments this month. Design progress will pause until early 2025 due to District staff resource constraints and the anticipated timing of grant funding. District staff leveraged the 60% deliverable to apply in advance for FEMA Hazard Mitigation Grant Program (HMGP) funding; applications are accepted on a rolling basis until FEMA posts a formal notice of funding opportunity.

District staff continue to work with Rincon Consultants, Inc., (Rincon) on the environmental compliance component of this Project. Rincon's specialists conducted site surveys this month to develop the technical studies required for California Environmental Quality Act (CEQA) compliance. With guidance from Rincon, District staff distributed 23 letters for tribal consultation in early December.

IX. Ocean Outfall Pump Station (OOPS) Motor Control Center (MCC) and Valve Rehabilitation Project

The District placed a purchase order for an Automatic Transfer Switch and anticipate delivery in early 2025. District staff worked with the vendor to revise the design of the MCC to make sure it would fit within the existing cabinet space in the OOPS. District staff issued a purchase order for the MCC and anticipate delivery in approximately March 2025. District staff will recommend award of an installation contract following receipt of the equipment.

X. Tertiary Disinfection Optimization Project

The District continues to wait for DDW to respond to its letter, submitted at the end of August 2024. Implementation of the low CT approach at the Tertiary Treatment Plant (TTP) is delayed until DDW approves the revised proposal approval. District staff are aiming for implementation by the second quarter of 2025.

XI. New Turbo Blower

District staff issued the purchase order for the new Turbo Blower in July. With a 7-month lead time, the blower will arrive onsite in January 2024. Staff placed the purchase order for and have received the associated harmonic filter. District staff will hire mechanical and electrical contractors for installation by the first quarter of 2025.

XII. Additional Tertiary Filter Disks

District staff placed the purchase order for the additional filter disks at the end of July. The disks were recently delivered to the WRP, and staff anticipate delivery of the final electrical components by December 16.

WRP staff will install the new disks in January and are scheduling the manufacturer, Aqua-Aerobics, for a site visit to assist with startup in late January or early February 2025.

XIII. Freeway Electrical Equipment Replacement

District staff placed the purchase order for the new Main Switchboard (MSB), MCC, safety switch, and meter box at the end of August 2023. The MSB arrived at the end of August 2024 while the remaining components remain on track to arrive in April 2025. District staff will hire a contractor for installation in the second quarter of 2025.

XIV. DAF No. 1 MCC Replacement

District staff placed the purchase order for the DAF No. 1 MCC in early August 2024. With a 35-week lead time, District staff anticipates receipt in April 2025. District staff will hire a contractor for installation in the second quarter of 2025.

XV. Westline Lift Station Main Switchboard Replacement Project

District staff negotiated below \$25,000 for the new Westline Lift Station MSB with the selected vendor and placed a purchase order in August 2024. Equipment receipt is delayed until July 2025 at which time the District will hire a contractor for installation.

XVI. Energy Efficiency Analysis

District staff continue to explore additional energy efficiency opportunities with SoCalREN and SW WISE to discuss potential energy efficiency opportunities. Potential opportunities include some water pump replacements, Headworks and Secondary Clarifier No. 1 Rehabilitation Project, and Aliso Creek Lift Station Rehabilitation.

The District is coordinating with SoCalRen on an application for the Department of Energy's Industrial Assessment Center Grant Program related to the waste activated cell (WAC) portion of the Headworks and Secondary Clarifier No. 1 Rehabilitation Project. Anticipated grant funding from this opportunity has increased to approximately \$372,000 in savings. Staff anticipate a decision on the grant in mid-December.

InPipe Energy has applied for a funding opportunity through the California Energy Commission (CEC) Bringing Rapid Innovation Development to Green Energy (BRIDGE) program for implementing the HydroXS energy recovery turbine at the Main Pressure Reducing Station (MPR). CEC funding has the potential to fund 75% of the project cost which could reduce the payback to less than one year with implementation costs potentially as low as \$11,000.

District staff entered into a contract with Terre Verde to analyze potential solar and battery energy efficiency projects at the WRP and P-1 Pump Station. Staff will provide an update as the analysis progresses.

| F.Y. 2024/25 CAPITAL IMPROVEMENT PROGRAM BUDGET ITEMS > \$50,000 BOARD APPROVAL SCHEDULE | | | | | | | | | | | | | | | |
|---|---|---------------------|---------|-----|-----|-----|-----|-------|-----|-----|-------|-----|-----|--------------------|---------------------|
| Category | Project Description | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | CIP Budget | Board Approved Cost |
| <i>2024/25 Capital Projects</i> | | | | | | | | | | | | | | | |
| | Regional Potable Reuse Implementation Plan | Pending grant award | | | | | | | | | | | | \$0 | |
| | OOPS MCC and Valve Replacement Project | | | | | O | | | | B | A | R | | \$191,000 | |
| | Lead and Copper Rule Revision Service Line Inventories | E | E | E | E | | | | | | | | | \$141,607 | \$138,607 |
| | Main Office Warehouse Improvements Project | | E | E | E | E | B | A | C | C | | | | \$0 | |
| | Secondary Clarifier No. 3 Drive Replacement Project | | | | O | B | A | C | C | | | | | \$0 | |
| <i>2024/25 Capital Equipment</i> | | | | | | | | | | | | | | | |
| | Cherry Booster Station Pump & Motor Replacement | | | | A | | | R | C | | | | | \$167,000 | |
| | R-4 Reservoir Mixing System Replacement | | | | | | | | E | E | A | C | C | \$70,000 | |
| | Westline Main Switchboard Replacement | O | | | | | | | | | | A | R | \$149,000 | |
| | Westline Generator Unit 213 Replacement | | | | | | | | | | | | A | \$267,000 | |
| | DAF No. 1 MCC Replacement | A | | | | | | | | B | A / R | C | C | \$149,000 | \$65,536 |
| | Additional Tertiary Filter Disks | A | | | | | R | C | | | | | | \$92,000 | \$88,617 |
| | WRP Unit 290 Radiator Replacement | A | | R | | | | | | | | | | \$150,000 | \$144,388 |
| | New Turbo Blower | | | | | B | B | A / R | C | | | | | \$631,000 | \$279,834 |
| | F-550 with Valve Maintenance Skid | | A | | | | | | | | | | | \$206,000 | |
| | Documentum Replacement / Corporate Intranet Development | | | | | | | A | ET | ET | C | C | | \$61,000 | |
| <i>Previous Fiscal Year Carryover</i> | | | | | | | | | | | | | | | |
| | P-3 Pump Station Rehabilitation | Pending grant award | | | | | | | | | | | | \$0 | |
| | Moulton/EI Toro Cathodic Protection Study | E | E | | | | | | | | | B | A | \$145,000 | |
| | Headworks and Secondary Clarifier Rehabilitation | E | E | E | E | E | E | E | B | A | C | C | C | \$1,998,800 | |
| | Grit Chamber Rehabilitation | C | C | C | C | C | C | | | | | | | \$1,046,502 | \$1,015,760 |
| | Aliso Creek Pump Station Rehabilitation Project | E | E / RFP | A | E | E | E | E | E | E | E | E | E | \$600,000 | \$484,000 |
| | Asset Management | ET | ET | ET | ET | ET | ET | ET | ET | A | | | | \$100,000 | |
| | New Warehouse | C | C | C | C | C | C | | | | | | | \$2,624,495 | \$2,091,222 |
| | Freeway Electrical Equipment Replacement | | | | | | | | | B | A / R | C | C | \$263,362 | \$155,646 |
| | Tertiary Disinfection Optimization Project | E | E | E | E | E | E | E | E | A | C | C | | \$132,000 | |
| | Caltrans I-5 Widening Utility Relocations | C | C | | | | | | | | | | | \$0 | \$627,365 |
| Total | | | | | | | | | | | | | | \$8,852,159 | \$4,952,368 |

Key:

Water

Wastewater

Recycled Water

Split between All Departments

Board Involvement

Abbreviations:

A = Approve by Board

B = Bid

BP = Board Presentation

C = Construction

E = Engineering/Study

ET = Evaluate

L = Legal

N = Negotiate

O = Order

P = Permit

RFP = Request for Proposal

R = Receive

EL TORO WATER DISTRICT

Glossary of Water Terms

Accumulated overdraft: The amount of water necessary to be replaced in the intake area of the groundwater basin to prevent the landward movement of ocean water into the fresh groundwater body.

Acre-foot, AF: A common water industry unit of measurement. An acre-foot is 325,851 gallons, or the amount of water needed to cover one acre with water one foot deep. An acre-foot serves annual needs of two typical California families.

ACWA: Association of California Water Agencies.
A statewide group based in Sacramento that actively lobbies State and Federal Government on water issues.

Advanced treatment: Additional treatment processes used to clean wastewater even further following primary and secondary treatment. Also known as tertiary treatment.

AFY: Acre-foot per year.

Alluvium: A stratified bed of sand, gravel, silt, and clay deposited by flowing water.

AMP: Allen McCulloch pipeline.

Major pipeline transporting treated water to water districts between Yorba Linda, where it starts to El Toro Water District reservoir, where it terminates.

Annexation: The inclusion of land within a government agency's jurisdiction.

Annual overdraft: The quantity by which the production of water from the groundwater supplies during the water year exceeds the natural replenishment of such groundwater supplies during the same water year.

Aqueduct: A man-made canal or pipeline used to transport water.

Aquifer: An underground geologic formation of rock, soil or sediment that is naturally saturated with water; an aquifer stores groundwater.

Arid: Dry; deserts are arid places. Semi-arid places are almost as dry as a desert.

Artesian: An aquifer in which the water is under sufficient pressure to cause it to rise above the bottom of the overlying confining bed, if the opportunity is provided.

Artificial recharge: The addition of surface water to a groundwater reservoir by human activity, such as putting surface water into recharge basins. (See also: groundwater recharge and recharge basin.)

AWWA American Water Works Association
Nationwide group of public and private water purveyors and related industrial suppliers.

Base flow: The portion of river surface flow which remains after deduction of storm flow and/or purchased imported water.

Bay-Delta: The Sacramento-San Joaquin Bay-Delta is a unique natural resource of local, state and national significance. The Delta is home to more than 500,000 people; contains 500,000 acres of agriculture; provides habitat for 700 native plant and animal species; provides water for more than 25 million Californians and 3 million acres of agriculture; is traversed by energy, communications and transportation facilities vital to the economic health of California; and supports a \$400 billion economy.

BIA: Building Industry Association.

Biofouling: The formation of bacterial film (biofilm) on fragile reverse osmosis membrane surfaces.

Biosolids: Solid organic matter recovered from a sewage treatment process and used especially as fertilizer.

BMP: Best Management Practice. An engineered structure or management activity, or combination of these, that eliminates or reduces adverse environmental effects.

Brackish water: A mixture of freshwater and saltwater.

Brown Act: Ralph M. Brown Act enacted by the State legislature governing all meetings of legislative bodies. Also known as the Open Meeting requirements.

Canal: A ditch used to move water from one location to another.

CASA: California Association of Sanitation Agencies The sanitation equivalent of ACWA concerned solely with issues affecting the treatment and disposal of solid waste and wastewater.

CEQA: California Environmental Quality Act.

CERCLA: Comprehensive Environmental Response, Compensation and Liability Act. This federal law establishes the Superfund program for hazardous waste sites. It provides the legal basis for the United States EPA to regulate and clean up hazardous waste sites, and if appropriate, to seek financial compensation from entities responsible for the site.

CFS: Cubic feet per second.

Chloramines: A mixture of ammonia and chlorine used to purify water.

Clarify: To make clear or pure by separation and elimination of suspended solid material.

Coagulation: The clumping together of solids so they can more easily be settled out or filtered out of water. A chemical called aluminum sulfate (alum) is generally used to aid coagulation in water treatment and reclamation.

Coastkeepers: A non-profit organization dedicated to the protection and preservation of the marine habitats and watersheds of Orange County through programs of education, restoration, enforcement and advocacy.

Colored water: Groundwater extracted from the basin that is unsuitable for domestic use without treatment due to high color and odor exceeding drinking water standards.

Condensation: The process of water vapor (gas) changing into liquid water. An example of condensation can be seen in the tiny water droplets that form on the outside of a glass of iced tea as warmer air touches the cooler glass.

Confined aquifer: An aquifer that is bound above and below by dense layers of rock and contains water under pressure.

Conjunctive use: Storing imported water in a local aquifer, in conjunction with groundwater, for later retrieval and use.

Contaminate: To make unclean or impure by the addition of harmful substances.

CPCFA: California Pollution Control Financing Authority. State agency providing funds for wastewater reclamation projects.

Crisis:

1. **a:** The turning point for better or worse **b:** a paroxysmal attack of pain, distress, or disordered function **c:** an emotionally significant event or radical change of status in a person's life <a midlife crisis>
2. The decisive moment (as in a literary plot)
3. **a:** An unstable or crucial time or state of affairs in which a decisive change is impending; *especially* : one with the distinct possibility of a highly undesirable outcome <a financial crisis> **b:** a situation that has reached a critical phase

CTP Coastal Treatment Plant

CWPCA California Water Pollution Control Association. A 7000 member non-profit educational organization dedicated to water pollution control.

Dam: A barrier built across a river or stream to hold water.

Decompose: To separate into simpler compounds, substances or elements.

Deep percolation: The percolation of surface water through the ground beyond the lower limit of the root zone of plants into a groundwater aquifer.

Degraded water: Water within the groundwater basin that, in one characteristic or another, does not meet primary drinking water standards.

Delta: Where the rivers empty; an outlet from land to ocean, also where the rivers deposit sediment they carry forming landforms.

Delta Vision: Delta Vision is intended to identify a strategy for managing the Sacramento-San Joaquin Delta as a sustainable ecosystem that would continue to support environmental and economic functions that are critical to the people of California.

Demineralize: To reduce the concentrations of minerals from water by ion exchange, distillation, electro-dialysis, or reverse osmosis.

De-nitrification: The physical process of removing nitrate from water through reverse osmosis, microfiltration, or other means.

Desalting (or desalination): Removing salts from salt water by evaporation or distillation. Specific treatment processes, such as reverse osmosis or multi-stage flash distillation, to demineralize seawater or brackish (saline) waters for reuse. Also sometimes used in wastewater treatment to remove salts other pollutants.

Desilting: The physical process of removing suspended particles from water.

Dilute: To lessen the amount of a substance in water by adding more water.

Disinfection: Water treatment which destroys potentially harmful bacteria.

Drainage basin: The area of land from which water drains into a river, for example, the Sacramento River Basin, in which all land area drains into the Sacramento River. Also called catchment area, watershed, or river basin.

Drought: A prolonged period of below-average precipitation.

DPHS: California Department of Public Health Services. Regulates public water systems; oversees water recycling projects; permits water treatment devices; certifies drinking water treatment and distribution operators; supports and promotes water system security; provides support for small water systems and for improving technical, managerial, and financial (TMF) capacity; provides funding opportunities for water system improvements.

DVL: Diamond Valley Lake. Metropolitan's major reservoir near Hemet, in southwestern Riverside County.

DWR: California Department of Water Resources. Guides development/management of California's water resources; owns/operates State Water Project and other water facilities.

Endangered Species: A species of animal or plant threatened with extinction.

Endangered Species Act of 1973 (ESA): The most wide-ranging of the dozens of United States environmental laws passed in the 1970s. As stated in section 2 of the act, it was designed to protect critically imperiled species from extinction as a "consequence of economic growth and development untended by adequate concern and conservation.

Ecosystem: Where living and non-living things interact (coexist) in order to survive.

Effluent: Wastewater or other liquid, partially or completely treated or in its natural state, flowing from a treatment plant.

Evaporation: The process that changes water (liquid) into water vapor (gas).

Estuary: Where fresh water meets salt water.

Evapotranspiration: The quantity of water transpired (given off), retained in plant tissues, and evaporated from plant tissues and surrounding soil surface. Quantitatively, it is expressed in terms of depth of water per unit area during a specified period of time.

FCH Federal Clearing House – Environmental Review/Processing

FEMA Federal Emergency Management Agency

Filtration: The process of allowing water to pass through layers of a porous material such as sand, gravel or charcoal to trap solid particles. Filtration occurs in nature when rain water soaks into the ground and it passes through hundreds of feet of sand and gravel. This same natural process of filtration is duplicated in water and wastewater treatment plants, generally using sand and coal as the filter media.

Flocculation: A chemical process involving addition of a coagulant to assist in the removal of turbidity in water.

Forebay: A reservoir or pond situated at the intake of a pumping plant or power plant to stabilize water level; also, a portion of a groundwater basin where large quantities of surface water can recharge the basin through infiltration.

Gray water reuse: Reuse, generally without treatment, of domestic type wastewater for toilet flushing, garden irrigation and other non-potable uses. Excludes water from toilets, kitchen sinks, dishwashers, or water used for washing diapers.

Green Acres Project (GAP): A 7.5 million gallons per day (MGD) water reclamation project that serves tertiary treated recycled water to irrigation and industrial users in Costa Mesa, Fountain Valley, Huntington Beach, Newport Beach, and Santa Ana.

God Squad: A seven-member committee that is officially called the "Endangered Species Committee". Members consist of Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Council of Economic Advisers, the Administrator of the National Oceanic and Atmospheric Administration and one individual from the affected state. The squad was established in 1978 by an amendment to the 1973 Endangered Species Act (ESA). It has only been called into action three times to deal with proposed federal agency actions that have been determined to cause "jeopardy" to any listed species. Such actions may receive an exemption from the ESA if five members of the committee determine that the action is of regional or national significance, that the benefits of the action clearly outweigh the benefits of conserving the species and that there are no reasonable and prudent alternatives to the action.

Groundwater: Water that has percolated into natural, underground aquifers; water in the ground, not water puddled on the ground.

Groundwater basin: A groundwater reservoir defined by the overlying land surface and the underlying aquifers that contain water stored in the reservoir. Boundaries of success-ively deeper aquifers may differ and make it difficult to define the limits of the basin.

Groundwater mining: The withdrawal of water from an aquifer in excess of recharge over a period of time. If continued, the underground supply would eventually be exhausted or the water table could drop below economically feasible pumping lifts.

Groundwater overdraft: The condition of a groundwater basin in which the amount of water withdrawn by pumping exceeds the amount of water that recharges the basin over a period of years during which water supply conditions approximate average.

Groundwater recharge: The action of increasing groundwater storage by natural conditions or by human activity. See also: Artificial recharge.

Ground Water Replenishment System (GWRS): A joint project of the Orange County Water District and the Orange County Sanitation District that will provide up to 100,000 acre-feet of reclaimed water annually. The high-quality water will be used to expand an existing underground seawater intrusion barrier and to replenish the groundwater basin underlying north and central Orange County.

Groundwater table: The upper surface of the zone of saturation (all pores of subsoil filled with water), except where the surface is formed by an impermeable body.

GPM: Gallons per minute.

Ground Water Replenishment System (GWRS): Orange County Water District's state-of-the-art, highly advanced, waste-water treatment facility.

Hydrologic balance: An accounting of all water inflow to, water outflow from, and changes in water storage within a hydrologic unit over a specified period.

Hydrologic cycle: The process of water constantly circulating from the ocean, to the atmosphere, to the earth in a form of precipitation, and finally returning to the ocean.

Imported water: Water that has originated from one hydrologic region and is transferred to another hydrologic region.

Inflatable rubber dams: Designed to replace temporary sand levees that wash out during heavy storm flow, the dams hold back high-volume river flows and divert the water into the off-river system for percolation.

Influent: Water or wastewater entering a treatment plant, or a particular stage of the treatment process.

Irrigation: Applying water to crops, lawns or other plants using pumps, pipes, hoses, sprinklers, etc.

JPIA Joint Powers Insurance Authority. A group of water agencies providing self-insurance to members of the ACWA.

LAIF Local Agency Investment Fund. Statewide pool of surplus public agency money managed by State Treasurer.

Leach: To remove components from the soil by the action of water trickling through.

MAF: Million acre feet.

MCL: Maximum contaminant level set by EPA for a regulated substance in drinking water. According to health agencies, the maximum amount of a substance that can be present in water that's safe to drink and which looks, tastes and smells good.

MET: Metropolitan Water District of Southern California.

MGD: Million gallons per day.

Microfiltration: A physical separation process where tiny, hollow filaments members separate particles from water.

Microorganism: An animal or plant of microscopic size.

MWD: Metropolitan Water District of Southern California.

MWDOC: Municipal Water District of Orange County. Intermediate wholesaler between MWD and 27 member agencies including ETWD.

Non-point source pollution: Pollution that is so general or covers such a wide area that no single, localized source of the pollution can be identified.

NPDES National Pollution Discharge Elimination System

OCBC: Orange County Business Council.

OCEMA Orange County Environmental Management Agency

OCWD: Orange County Water District.

Opportunity:

1. A favorable juncture of circumstances.
2. A good chance for advancement or progress .

Organism: Any individual form of life, such as a plant, animal or bacterium.

PCM Professional Community Management, Inc. Property Management company providing services to Laguna Woods Village and other homeowner associations.

Perched groundwater: Groundwater supported by a zone of material of low permeability located above an underlying main body of groundwater with which it is not hydrostatically connected.

Percolation: The downward movement of water through the soil or alluvium to the groundwater table.

Permeability: The capability of soil or other geologic formations to transmit water.

Point source: A specific site from which waste or polluted water is discharged into a water body, the source of which is identified. See also: non-point source.

Potable water: Suitable and safe for drinking.

PPB: Parts per billion.

Precipitation: Water from the atmosphere that falls to the ground as a liquid (rain) or a solid (snow, sleet, hail).

Primary treated water: First major treatment in a wastewater treatment facility, usually sedimentation but not biological oxidation.

Primary treatment: Removing solids and floating matter from wastewater using screening, skimming and sedimentation (settling by gravity).

Prior appropriation doctrine: Allocates water rights to the first party who diverts water from its natural source and applies the water to beneficial use. If at some point the first appropriator fails to use the water beneficially, another person may appropriate the water and gain rights to the water. The central principle is beneficial use, not land ownership.

Pumping Plant: A facility that lifts water up and over hills.

Recharge: The physical process where water naturally percolates or sinks into a groundwater basin.

Recharge basin: A surface facility, often a large pond, used to increase the infiltration of surface water into a groundwater basin.

Reclaimed wastewater: Wastewater that becomes suitable for a specific beneficial use as a result of treatment. See also: wastewater reclamation.

Reclamation project: A project where water is obtained from a sanitary district or system and which undergoes additional treatment for a variety of uses, including landscape irrigation, industrial uses, and groundwater recharge.

Recycling: A type of reuse, usually involving running a supply of water through a closed system again and again. Legislation in 1991 legally equates the term "recycled water" to reclaimed water.

Reservoir: A place where water is stored until it is needed. A reservoir can be an open lake or an enclosed storage tank.

Reverse osmosis: (RO) A method of removing salts or other ions from water by forcing water through a semi-permeable membrane.

RFP Request for Proposal

Riparian: Of or on the banks of a stream, river, or other body of water.

RO: Reverse osmosis. See the listing under "reverse osmosis."

R-O-W Right-of-way

Runoff: Liquid water that travels over the surface of the Earth, moving downward due to gravity. Runoff is one way in which water that falls as precipitation returns to the ocean.

RWQCB Regional Water Quality Control Board. State agency regulating discharge and use of recycled water.

Safe Drinking Water Act (SDWA): The Safe Drinking Water Act (SDWA) was originally passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply. The law was amended in 1986 and 1996 and requires many actions to protect drinking water and its sources: rivers, lakes, reservoirs, springs, and ground water wells. (SDWA does not regulate private wells which serve fewer than 25 individuals.) SDWA authorizes the United States Environmental Protection Agency (US EPA) to set national health-based standards for drinking water to protect against both naturally-occurring and man-made contaminants that may be found in drinking water. US EPA, states, and water systems work together to make sure that these standards are met.

Safe yield: The maximum quantity of water that can be withdrawn from a groundwater basin over a long period of time without developing a condition of overdraft, sometimes referred to as sustained yield.

SAFRA Santa Ana River Flood Protection Agency

Salinity: Generally, the concentration of mineral salts dissolved in water. Salinity may be measured by weight (total dissolved solids - TDS), electrical conductivity, or osmotic pressure. Where seawater is known to be the major source of salt, salinity is often used to refer to the concentration of chlorides in the water.

SAWPA: Santa Ana Watershed Project Authority.

SCADA Supervisory Control and Data Acquisition

SCAP Southern California Alliance of Publicly. Newly formed group of public agencies seeking reasonable regulation of sewer industry.

SCH State Clearing House – Environmental Review/Processing

Seasonal storage: A three-part program offered by Metropolitan Water District of Southern California:

STSS (Short Term Seasonal Storage) financially encourages agencies with local groundwater production capabilities to produce a higher percentage of their demand in the summer from their local groundwater supplies, thus shifting a portion of their demand on the MWD system from the summer to winter;

LTSS (Long Term Seasonal Storage) financially encourages retail agencies to take and store additional amounts of MWD water above their normal annual demands for later use; Replenishment Water provides less expensive interruptible water that is generally available and used to increase the operating yield of groundwater basins.

Seawater intrusion: The movement of salt water into a body of fresh water. It can occur in either surface water or groundwater basins.

Seawater barrier: A physical facility or method of operation designed to prevent the intrusion of salt water into a body of freshwater.

Secondary treatment: The biological portion of wastewater treatment which uses the activated sludge process to further clean wastewater after primary treatment. Generally, a level of treatment that produces 85 percent removal efficiencies for biological oxygen demand and suspended solids. Usually carried out through the use of trickling filters or by the activated sludge process.

Sedimentation: The settling of solids in a body of water using gravity.

Settle: To clarify water by causing impurities/solid material to sink to a container's bottom.

Sewer: The system of pipes that carries wastewater from homes and businesses to a treatment plant or reclamation plant. Sewers are separate from storm drains, which is a system of drains and pipes that carry rain water from urban streets back to the ocean. Overwatering your yard can also cause water to run into the streets and into storm drains. Storm drain water is not treated before it is discharged.

SigAlert: Any unplanned event that causes the closing of one lane of traffic for 30 minutes or more, as opposed to a planned event, like road construction, which is planned.

SJBA San Juan Basin Authority

Sludge: The solids that remain after wastewater treatment. This material is separated from the cleaned water, treated and composted into fertilizer. Also called biosolids.

SOCWA South Orange County Wastewater Authority. Regional Joint Powers Authority formed for collection and treatment of sewerage (previously known as AWMA/SERRA/SOCRA). SOCWA member agencies:

CSC – City of San Clemente

CSJC – City of San Juan Capistrano

CLB – City of Laguna Beach

ETWD – El Toro Water District

EBSD – Emerald Bay Service District

IRWD – Irvine Ranch Water District

MNWD – Moulton Niguel Water District

SCWD – South Coast Water District

SMWD – Santa Margarita Water District

TCWD – Trabuco Canyon Water District

SRF State Revolving Fund

Storm Drain: The system of pipes that carries rain water from urban streets back to the ocean. Overwatering your yard can also cause water to run into the streets and into storm drains. Storm drain

water is not treated before it is discharged. Storm drains are separate from sewers, which is a separate system of pipes to carry wastewater from homes and businesses to a treatment plant or reclamation plant for cleaning.

Storm flow: Surface flow originating from precipitation and run-off which has not percolated to an underground basin.

SWP: State Water Project. An aqueduct system that delivers water from northern California to central and southern California.

SWRCB State Water Resources Control Board

TDS: Total dissolved solids. A quantitative measure of the residual minerals dissolved in water that remain after evaporation of a solution. Usually expressed in milligrams per liter.

Tertiary treatment: The treatment of wastewater beyond the secondary or biological stage. Normally implies the removal of nutrients, such as phosphorous and nitrogen, and a high percentage of suspended solids.

THM: Trihalomethanes. Any of several synthetic organic compounds formed when chlorine or bromine combine with organic materials in water.

TMA: Too many acronyms.

TMDL: Total maximum daily load; A quantitative assessment of water quality problems, contributing sources, and load reductions or control actions needed to restore and protect bodies of water.

Transpiration: The process in which plant tissues give off water vapor to the atmosphere as an essential physiological process.

Turbidity: Thick or opaque with matter in suspension; muddy water.

Ultraviolet light disinfection: A disinfection method for water that has received either secondary or tertiary treatment used as an alternative to chlorination.

VE Value Engineering

VOC: Volatile organic compound; a chemical compound that evaporates readily at room temperature and contains carbon.

Wastewater: Water that has been previously used by a municipality, industry or agriculture and has suffered a loss of quality as a result.

Water Cycle: The continuous process of surface water (puddles, lakes, oceans) evaporating from the sun's heat to become water vapor (gas) in the atmosphere. Water condenses into clouds and then falls back to earth as rain or snow (precipitation). Some precipitation soaks into the ground (percolation) to replenish groundwater supplies in underground aquifers.

Water rights: A legally protected right to take possession of water occurring in a natural waterway and to divert that water for beneficial use.

Water-use Efficiency: The water requirements of a particular device, fixture, appliance, process, piece of equipment, or activity.

Water year (USGS): The period between October 1st of one calendar year to September 30th of the following calendar year.

Watermaster: A court appointed person(s) that has specific responsibilities to carry out court decisions pertaining to a river system or watershed.

Water Reclamation: The treatment of wastewater to make it suitable for a beneficial reuse, such as landscape irrigation. Also called water recycling.

Watershed: The total land area that from which water drains or flows to a river, stream, lake or other body of water.

Water table: The top level of water stored underground.

WEF Water Environment Federation. Formerly – Water Pollution Control Federation (WPCF). International trade group advising members of sewage treatment techniques and their effect on the environment.

Weir box: A device to measure/control surface water flows in streams or between ponds.

Wellhead treatment: Water quality treatment of water being produced at the well site.

Wetland: Any area in which the water table stands near, at, or above the land surface for a portion of the year. Wetlands are characterized by plants adapted to wet soil conditions.

Xeriscape: Landscaping that requires minimal water.