

OTAY WATER DISTRICT
FINANCE, ADMINISTRATION AND COMMUNICATIONS
COMMITTEE MEETING
and
SPECIAL MEETING OF THE BOARD OF DIRECTORS

2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CALIFORNIA
BOARDROOM

TUESDAY
December 13, 2016
11:30 A.M.

This is a District Committee meeting. This meeting is being posted as a special meeting in order to comply with the Brown Act (Government Code Section §54954.2) in the event that a quorum of the Board is present. Items will be deliberated, however, no formal board actions will be taken at this meeting. The committee makes recommendations to the full board for its consideration and formal action.

AGENDA

1. ROLL CALL
2. PUBLIC PARTICIPATION – OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO SPEAK TO THE BOARD ON ANY SUBJECT MATTER WITHIN THE BOARD'S JURISDICTION BUT NOT AN ITEM ON TODAY'S AGENDA

DISCUSSION ITEMS

3. APPROVE THE SUBMITTAL OF THE FINANCIAL SECURITY PACKAGE TO THE STATE WATER RESOURCES CONTROL BOARD (SWRCB), CALIFORNIA'S CLEAN WATER STATE REVOLVING FUND PROGRAM, FOR THE PURPOSE OF APPLYING FOR \$7,750,000 IN DEBT FINANCING OF THE CAMPO ROAD SEWER REPLACEMENT PROJECT; AND ADOPT RESOLUTION NO. 4320 TO FINANCE THE COST OF CONSTRUCTING AND RECONSTRUCTING CERTAIN PUBLIC FACILITIES AND IMPROVEMENTS; RESOLUTION NO. 4321 TO FILE AN APPLICATION FOR A FINANCING AGREEMENT FROM THE SWRCB; AND RESOLUTION NO. 4322 TO PLEDGE SEWER OPERATING REVENUES AND/OR REPLACEMENT RESERVES FOR THE CAMPO ROAD SEWER MAIN REPLACEMENT PROJECT (BELL) [5 minutes]
4. APPROVE THE CREATION OF AN AUTOMATED METER READING CHANGE OUT CAPITAL IMPROVEMENT PROGRAM PROJECT IN THE AMOUNT OF \$1,500,000 FOR THE CURRENT FISCAL YEAR (CAREY) [5 minutes]
5. ADOPT RESOLUTION NO. 4324 TO UPDATE BOARD POLICY #47, POLICY AGAINST DISCRIMINATION, HARASSMENT, RETALIATION AND COMPLAINT PROCEDURE, AND BOARD POLICY #48, ADA/FEHA DISABILITY POLICY (WILLIAMSON) [5 minutes]

AGENDA ITEM 3



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 1, 2017
		PROJECT:	DIV. NO. All
SUBMITTED BY:	Rita Bell, Finance Manager		
APPROVED BY:	<input checked="" type="checkbox"/> Joseph R. Beachem, Chief Financial Officer <input checked="" type="checkbox"/> German Alvarez, Assistant General Manager <input checked="" type="checkbox"/> Mark Watton, General Manager		
SUBJECT:	Financing the Campo Road Sewer Main Replacement Project through State Water Resources Control Board, California's Clean Water State Revolving Fund (CWSRF) Program		

GENERAL MANAGER'S RECOMMENDATION:

Authorize the submittal of the Financial Security Package to the State Water Resources Control Board, California's Clean Water State Revolving Fund (CWSRF) Program, for the purpose of applying for \$7,750,000 in debt financing of the Campo Road Sewer Replacement Project; and that the Board Adopt Resolution 4320, to finance the cost of constructing and reconstructing certain public facilities and improvements; Resolution 4321, to file an application for a financing agreement from the State Water Resources Control Board (SWRCB); and Resolution 4322, to pledge sewer operating revenues and/or replacement reserves for the Campo Road Sewer Main Replacement Project; which are required as part of the Financial Security Package at the time the application is submitted to CWSRF.

COMMITTEE ACTION:

See Attachment A.

PURPOSE:

That the Board of Directors authorize staff to submit the Financial Security Package and approve the necessary resolutions to allow the \$7,750,000 debt financing of the Campo Road Sewer Main Replacement Project (Campo Road Project) through the CWSRF.

BACKGROUND:

The CWSRF uses federal and state funds to make loans to publicly owned treatment works for the construction of wastewater treatment and sewage collection systems, water recycling facilities, the implementation of nonpoint source water quality control projects, and other eligible projects. The intention of CWSRF is to provide financial assistance in perpetuity. It offers below-market rate financing, i.e. half of the most recent General Obligation (GO) bond rate at time of funding approval. The most current CWSRF interest rate based on a bond sale date of March 8, 2016 is 1.7%.

In 1990, the District used the CWSRF program to debt finance a \$5 million upgrade and expansion of the Ralph W. Chapman Water Recycling Facility, which has been repaid. For future projects, financing terms can go up to 30 years or the useful life of the funding of the project, and loan repayment begins one year after completion of construction. The CWSRF offers flexibility and reduces paperwork duplication for financing multiple projects. This financing vehicle is something the District should always consider for eligible projects because of the favorable terms.

The District's \$8.5 million Campo Road Project meets the eligibility requirements of the CWSRF. The project spans over a period of four years from FY 2016 to FY 2019, and will upgrade the sewer main capacity by replacing approximately 11,550 feet of existing 10-inch PVC sewer main, 450 feet of 10-inch reinforced polymer mortar pipe sewer main, and 50 feet of 15-inch sewer main. The existing sewer main is under-sized and must be replaced to increase capacity. Portions of the sewer main are located in sensitive habitat areas making it difficult to access for maintenance.

ANALYSIS:

Based on CWSRF current interest rate of 1.7% and a GO bond rate of 3.3%, for a \$7.5 million loan with 30-year term, it has the potential to save the District \$3.7 million in interest cost. On top of the interest savings, there would be additional savings of \$145,000 on legal fees and out-of-pocket expenses. Unlike financing through Certificates of Participation, financing through the CWSRF does not

require a Financial Advisor, Bond Counsel and Disclosure Counsel, but just a legal opinion provided by our legal counsel to approve financing.

Because of the aging infrastructure, the sewer CIP expenditures over the next six years will be \$3.7 million in betterment projects and \$13.9 million in replacement projects, totaling \$17.6 million. (See table below.)

	FY17	FY18	FY19	FY20	FY21	FY22	Total
Sewer Betterment CIP	26	2,406	1,279	1	1	1	3,714
Sewer Replacement CIP	1,585	4,455	3,660	1,793	940	1,550	13,983
Total Sewer CIP	1,611	6,861	4,939	1,794	941	1,551	17,697

Additionally, the District’s Metro expenditures are estimated to increase by approximately \$1 million per year in order to fund Phase 1 of the City of San Diego’s Pure Water program. Because of this added operating expense, the anticipated general fund financing of the CIP will not be available. In addition, the sewer rates are expected to increase more than projected in order to support the Pure Water program.

With no debt issuance, the sewer rates would have to spike to 18% in each of the next four years, and then 13% in each of the following two years. Should the District choose not to raise the rate more than the planned increases of 3% in FY 18 to FY 20 and 2% in FY 21 and 22, reserves would fall into deficits by FY 2020 as shown in the table below.

Reserve Balances	FY17	FY18	FY19	FY20	FY21	FY22
Sewer General Fund	609	221	(147)	(497)	(844)	(1,206)
Sewer Betterment Fund	1,204	(1,173)	(2,420)	(2,391)	(2,362)	(2,333)
Sewer Replacement Fund	11,253	6,982	3,481	1,822	901	(647)
Total Reserves	13,065	6,030	915	(1,065)	(2,305)	(4,187)

By issuing debt in the amount of \$7.75 million, the sewer rates can gradually increase about 4.6% per year. This would allow all reserves to stay on target in each year as shown in the table below.

Reserve Balances	FY17	FY18	FY19	FY20	FY21	FY22
Sewer General Fund	609	875	893	911	931	952
Sewer Betterment Fund	1,204	640	1	1	1	1
Sewer Replacement Fund	11,253	1,229	7,803	5,668	4,350	2,490
Total Reserves	13,065	2,744	8,696	6,580	5,281	3,442

Staff believes the Campo Road Project is a good match for issuing debt. A 30-year term with historically low interest rates allows the District to spread the cost more evenly to match the life of the asset.

FISCAL IMPACT: Joe Beachem, Chief Financial Officer

Borrowing \$7.75 million from the Clean Water State Revolving Fund will provide debt funding for the Campo Road Sewer Replacement project and allow the sewer operating and capital reserve levels to be maintained in accordance with the Board's Reserve Policy. The debt will have a 30-year maturity. With an estimated interest cost of 1.7%, the annual debt service on the bonds is projected to be approximately \$332,000.

STRATEGIC GOAL:

The District ensures its continued financial health through long-term financial planning and debt planning.

LEGAL IMPACT:

None.

Attachments:

- Attachment A - Committee Action Form
- Attachment B - CWSRF Financial Security Package
- Attachment C - Resolution 4320, Finance Cost of Project
- Attachment D - Resolution 4321, Application for Financing Agreement
- Attachment E - Resolution 4322, Pledged Revenues and/or Reserves



ATTACHMENT A

SUBJECT/PROJECT:	Financing the Campo Road Sewer Main Replacement Project through California's Clean Water State Revolving Fund (CWSRF) Program
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COMMITTEE ACTION:

The Finance, Administration and Communications Committee supported staff's recommendation to the Board to finance the Campo Road Sewer Main Replacement Project through California's Clean Water State Revolving Fund (CWSRF) Program.

NOTE:

The "Committee Action" is written in anticipation of the Committee moving the item forward for board approval. This report will be sent to the Board as a committee approved item, or modified to reflect any discussion or changes as directed from the committee prior to presentation to the full board.

FINANCIAL SECURITY PACKAGE

Applicant (Entity) Name:	
Project Title:	
Contact Person:	Phone: ()

1. Amount of Assistance Requested: \$

2. Term Requested: 20-Year 30-Year

3. Other Project Funding Sources

Name and Type of Funding Sources	Amount	Applied	Approved	Received
	\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Current Year Median Household Income: \$

5a. Current Year Estimated Population Served:	5b. Check box if less than 50% of residences are permanently occupied <input type="checkbox"/>
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6. Active Service Connections Not Applicable

Connection Type	Number of Connections	Current Monthly Service Charge	Projected Monthly Service Charge at Project Completion	Average Monthly Billing (Last 12 months)
Residential		\$	\$	\$
Commercial		\$	\$	\$
Industrial		\$	\$	\$
Other		\$	\$	\$
TOTAL		\$	\$	\$

Rate increase effective date for projected monthly service charges:

7. Projected Annual Operations and Maintenance Costs, Including amortized replacement costs (upon completion):	\$
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8. Discussion of Material Events, Material Obligation Conditions, and Any Debt Limit

Identify any current prior material events such as bankruptcy, defaults, litigation, grand jury findings, unscheduled draws on reserve funds, substitution of insurers or their failure to perform, unscheduled draws on credit enhancements, actions taken in anticipation of filing Chapter 9, rating changes, relevant conditions in material obligations, and any local debt limit.

State Use Only	
CWSRF Project #	
Project Manager	
Date Received	

ATTACHMENTS (Check the box next to each item attached to your application.)

- F1 – AUDITED FINANCIAL STATEMENTS (3 years) AND BUDGETS OR PROJECTIONS (2 years)**
- F2 – TAX QUESTIONNAIRE**
- F3 – REIMBURSEMENT RESOLUTION**
- F4 – AUTHORIZING RESOLUTION**
- F5 – RATE ADOPTION RESOLUTION**
- F6 – PLEDGED REVENUES AND FUND(S) RESOLUTION**
- F7 – RELATED DEBT (see Application Information & Instructions)**
- F8 – NEW SPECIAL TAX, ASSESSMENT DISTRICT, OR SERVICE CHARGE PROJECTIONS (if applicable)**
- F9 – RELEVANT SERVICE, MANAGEMENT, OPERATING, OR JOINT POWERS AGREEMENTS (if applicable)**
- F10 – FUTURE CAPITAL NEEDS (if applicable)**

**STATE WATER RESOURCES CONTROL BOARD
"ENGCP" WATER STATE REVOLVING FUND PROGRAM
TAX QUESTIONNAIRE (Version April 2015)**

LEGAL NAME OF APPLICANT

State Use Only:

CWSRF Project No.

DATE/TIME REC'D BY
SWRCB

Instructions: Answer all and provide all information and documents requested. Begin typing in the shaded area and the space will enlarge to accommodate the information that is typed. In lieu of typing in the shaded areas for any question, a separate page may be attached to this Tax Questionnaire or an electronic file in Word format may be attached.

Certain Definitions: As used in this Tax Questionnaire, "Project" means the facilities and/or capital improvements that you described in the Financial Assistance Application submitted to the State Water Board and constitutes those costs that will be funded by the State Water Board under the Financing Agreement (a template Financing Agreement can be found on the State Water Board's website), "Governmental Entity" means a state, city, county, town, public school district, other special district or joint powers authority, and "Non-Governmental Entity" means any person, partnership, corporation or other organization that is not organized as a state, city, county, town, public school district, other special district or joint powers authority. The federal government constitutes a Non-Governmental Entity. A Section 501(c)(3) organization constitutes a Non-Governmental Entity.

1. Briefly describe the Project, its functions and its principal components.

2. Indicate by principal components your current estimates of the costs of the Project, as follows:

- a. Construction costs \$ _____
- b. Equipment costs \$ _____
- c. Land Purchase \$ _____
- d. Rehabilitation or renovation of facilities \$ _____
- e. Site preparation costs \$ _____
- f. Architectural/engineering, design and planning costs \$ _____
- g. Engineering and administrative costs during construction \$ _____
- h. Surveys \$ _____
- i. Legal fees \$ _____
- j. Financing costs \$ _____
- k. Commitment fees and deposits \$ _____
- l. Other construction costs (please specify) \$ _____
- m. Other planning/design costs (please specify) \$ _____

3. Will any portion of the financing provided under the Financing Agreement be used to refinance other debt(s) (e.g., including any bonds, notes, leases or commercial paper) relating to the Project?

- Yes No Not Applicable

4. If you answered "yes" to Question #3, please state the amount of financing provided under the Financing Agreement that is expected to be used for refinancing purposes.

\$ _____

5. If you answered "yes" to Question #3, please specify the date(s) on which the financing provided under the Financing Agreement will be used to redeem other debt(s) relating to the Project.

6. If you answered "yes" to Question #3, please provide the following information:

- a. Name of the existing indebtedness to be refinanced: _____
- b. Issue date of the existing indebtedness: _____
- c. Par amount of the existing indebtedness: _____
- d. Purpose(s) of the existing indebtedness: _____
- e. Whether the existing indebtedness is immediately prepayable: _____
- f. Whether the interest on the existing indebtedness is federally taxable or tax-exempt: _____

7. If you answered "yes" to Question #3, are any proceeds of the other debt(s) relating to the Project still unspent?

- Yes No Not Applicable

If yes, please identify the amounts and the funds or accounts in which such proceeds are on deposit.

8. If you answered "yes" to Question #3, was the other debt(s) to be refinanced with the financing provided under the Financing Agreement used to refinance other prior debt(s) relating to the Project?

- Yes No Not Applicable

If yes, please provide the name of the original indebtedness, the issue date of the original indebtedness, the par amount of the original indebtedness, the purpose(s) of the original indebtedness, and whether the interest on the original indebtedness was federally taxable or tax-exempt.

9. Will any portion of the financing provided under the Financing Agreement be used for new financing of the Project?

- Yes No Not Applicable

10. If you answered "yes" to Question #9, please provide the dates of expected commencement and completion of construction of the Project.

Expected Commencement Date of Project:....._____

Expected Completion Date of Project:....._____

11. If you answered "yes" to Question #9, please state the amount of the financing provided under the Financing Agreement that is expected to be used for new financing purposes. If you answered "no" to Question #9, skip to Question #18 below.

\$ _____

12. If you answered "yes" to Question #9, please state the amount of Project costs to be newly financed under the Financing Agreement that are expected to be paid within the following periods of time:

Please respond to this question using the expected initiation date of construction.

Project costs to be spent within 6 months..... \$ _____

Project costs to be spent within 12 months (cumulative) \$ _____

Project costs to be spent within 18 months (cumulative) \$ _____

Project costs to be spent within 24 months (cumulative) \$ _____

Project costs to be spent within 30 months (cumulative) \$ _____

Project costs to be spent within 36 months (cumulative) \$ _____

Project costs to be spent *beyond* 36 months (cumulative)..... \$ _____

13. If you answered "yes" to Question #9, have you paid any costs of the Project prior to the date hereof?

Yes No Not Applicable

For each Project cost that has been previously paid, please provide an itemization of the following:

- a. Amount of the payment..... _____
- b. Purpose of the payment..... _____
- c. Date of the Payment..... _____
- d. Source of payment of such cost (e.g., revenue, federal or state grants, other financing, internal loan)..... _____

14. If you answered "yes" to Question #13, have you at any time adopted a resolution or other official action (e.g., a so-called "reimbursement resolution") relating to your intent to finance the Project with financial assistance from the State Water Board or other indebtedness?

Yes No Not Applicable

If yes, please identify the date of such resolution or other document and attach a copy.

15. If you answered "yes" to Question #9, will any portion of the financing provided under the Financing Agreement be used to pay administrative or engineering expenses directly relating to the construction of the Project?

Yes No Not Applicable

If yes, please state the amount expected to be so used and provide details as to its calculation (e.g., based on actual costs or a percentage of construction).

16. If you answered "yes" to Question #15, will any portion of the administrative or engineering expenses directly relating to the construction of the Project be incurred by the staff of the Applicant?

Yes No Not Applicable

If yes, please state the amount expected to be so used and provide details as to its calculation (e.g., based on actual costs or a percentage of construction).

17. If you answered "yes" to Question #16, will the administrative or engineering expenses directly relating to the construction of the Project be tracked by an accounting system, such as a cost accounting system, that will allow them to be differentiated from other charges for other work done by the applicant's staff?

Yes No Not Applicable

If yes, please specify how charges will be tracked.

18. Does any Non-Governmental Entity own, or do you anticipate any Non-Governmental Entity owning, any portion of the Project at any time during the term of the financing?

Yes No Not Applicable

If yes, identify the Non-Governmental Entity and provide all available details with respect to its ownership interest.

19. Does any Non-Governmental Entity lease, or do you anticipate any Non-Governmental Entity leasing, any portion of the Project at any time during the term of the financing?

Yes No Not Applicable

If yes, identify the Non-Governmental Entity and provide all available details with respect to its lease interest.

20. Have you entered, or do you anticipate entering, into any inter-municipal contract or agreement(s) with any Governmental Entity with respect to the Project (or any portion of the Project) during the term of the financing?

Yes No Not Applicable

If yes, please describe the purpose of each such agreement, and attach a copy of any existing or contemplated agreement.

21. Have you entered, or do you anticipate entering, into any contract or agreement any Non-Governmental Entity contracting to operate, manage or provide any exclusive services with respect to the Project (or any portion of the Project) during the term of the financing?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity and explain the arrangement. If an operations, management or exclusive services contract currently exists, please attach a copy. Contracts that relate solely to services that are merely incidental to the primary use of the Project need not be listed. Examples of incidental services are contracts for janitorial services, office equipment repairs or billing services. If you are uncertain as to whether the contract is incidental or not, please describe the contract and the services provided thereunder.

22. Does the Project provide, or do you anticipate the Project providing, water or wastewater services to any Non-Governmental Entity other than on the basis of standard rates and charges which are generally applicable and uniformly applied and are adjusted from time to time by the Applicant?

Yes No Not Applicable

If there are or will be any non-standard rates and charges, describe the rate structure, focusing on any special rate agreements or charges for specific entities. An example of a non-standard rate is an industrial user paying a flat fee in a system where the other users pay a rate based on usage.

23. Does any Non-Governmental Entity have, or do you anticipate any Non-Governmental Entity having, special priority rights or other preferential rights to use the Project or the services of the Project pursuant to any contractual or other arrangement?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity, and describe the special priority or preferential right(s).

24. Are the functions and services of the entire Project available, and do you expect the functions and services of the entire Project will be available, for use by the general public on a first-come, first-served basis?

Yes No Not Applicable

If no, please explain and describe the portion of the Project that is not, or will not, be available for use by the general public. For example, municipal water and wastewater systems used for residential, commercial, governmental and business purposes are available for use by the general public; a specialized pollution control facility immediately adjacent to a private business that is the sole user of the facility is not available for use by the general public.

25. Have you entered, or do you anticipate entering, into a "take" or "take-or-pay" contract with any Non-Governmental Entity for use of any portion of the Project or the services of the Project?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity, and describe the arrangement therewith. If a take or a take-or-pay contract currently exists, please attach a copy.

26. Will any Non-Governmental Entity guarantee or otherwise be directly obligated to repay the financial assistance provided under the Financing Agreement?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity, and describe the guarantee arrangement therewith.

27. Have you received, or do you expect to receive, any grant or other form of assistance for financing of any portion of the Project from the State of California, the federal government or any other entity or person?

Yes No Not Applicable

If yes, please explain.

28. Will any portion of the financing projected under the Financing Agreement be used as a substitute for other funds which were otherwise to be used as a source of financing and which have been used or will be used to acquire, directly or indirectly, other investment property?

Yes No Not Applicable

If yes, please explain.

APPLICANT ACKNOWLEDGEMENT AND SIGNATURE

I hereby certify that I am an authorized representative of the Applicant, and that I am authorized by the Applicant to execute this Tax Questionnaire. I am charged with the responsibility to perform such acts as are necessary and proper for the financing, construction, acquisition and/or improvement of the Project, and am acting for and on behalf of the Applicant in executing this Tax Questionnaire. I certify that I am familiar with the Project and that all information contained herein is true, correct and complete to the best of my knowledge. I am not aware of any facts or circumstances that would cause me to question the accuracy or reasonableness of any information contained in these responses or attached documentation. I understand that the foregoing information and attached documentation will be relied upon by the State Water Board and their counsel, in providing financing with respect to the Project.

**AUTHORIZED REPRESENTATIVE
SIGNATURE**

PRINT NAME AND TITLE

DATE

AUTHORIZING RESOLUTION/ORDINANCE

RESOLUTION NO: _____

WHEREAS _____ RESOLVED BY THE _____
(insert appropriate findings) *(insert name of Governing Board of the Entity)*
OF THE _____ (the "Entity"), AS FOLLOWS:
(insert Entity name)

The _____ (the "Authorized Representative") or designee is
(insert Title of Authorized Representative)
hereby authorized and directed to sign and file, for and on behalf of the Entity, a Financial Assistance
Application for a financing agreement from the State Water Resources Control Board for the planning, design,
and construction of _____ (the "Project").
(insert Project Name)

This Authorized Representative, or his/her designee, is designated to provide the assurances, certifications,
and commitments required for the financial assistance application, including executing a financial assistance
agreement from the State Water Resources Control Board and any amendments or changes thereto.

The Authorized Representative, or his/her designee, is designated to represent the Entity in carrying out the
Entity's responsibilities under the financing agreement, including certifying disbursement requests on behalf of
the Entity and compliance with applicable state and federal laws.

CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted
at a meeting of the _____ held
(insert name of Governing Board of the Entity)
on _____.
(Date)

(Name, Signature, and Seal of the Clerk or Authorized Record Keeper of the Governing Board of the Agency)

PLEGGED REVENUES AND FUND(S) RESOLUTION

WHEREAS _____
(insert appropriate findings regarding intent, authority, and procedure)
_____;

THEREFORE BE IT RESOLVED, the _____ (the "Entity") hereby
(insert Entity name)
dedicates and pledges _____
(insert exact name of revenue stream and designated fund containing those revenues)

to payment of any and all Clean Water State Revolving Fund and/or Water Recycling Funding Program
financing for _____ (the "Project"). The
(insert Project name and 4-digit CWSRF Project number)

Entity commits to collecting such revenues and maintaining such fund(s) throughout the term of such
financing and until the Entity has satisfied its repayment obligation thereunder unless modification or
change is approved in writing by the State Water Resources Control Board. So long as the financing
agreement(s) are outstanding, the Entity's pledge hereunder shall constitute a lien in favor of the State
Water Resources Control Board on the foregoing fund(s) and revenue(s) without any further action
necessary. So long as the financing agreement(s) are outstanding, the Entity commits to maintaining the
fund(s) and revenue(s) at levels sufficient to meet its obligations under the financing agreement(s).

CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted
at a meeting of the _____ held
(insert name of Governing Board of the Entity)
on _____
(Date)

(Name, Signature, and Seal of the Clerk or Authorized Record Keeper of the Governing Board of the Agency)

RELATED DEBT

The following related debts are senior to the proposed CWSRF financing:

Name of Lender and Title of Debt or Loan Number	Debt Security or Source of Revenue	Debt Service Coverage Requirement	Rating	Original Debt Amount	Current Balance	Payment Amount	Interest Rate	Debt Term & Maturity Date
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/

The following related debts are on parity to the proposed Financing Agreement:

Name of Lender and Title of Debt or Loan Number	Debt Security or Source of Revenue	Debt Service Coverage Requirement	Rating	Original Debt Amount	Current Balance	Payment Amount	Interest Rate	Debt Term & Maturity Date
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/

The following related debts are subordinate to the proposed Financing Agreement:

Name of Lender and Title of Debt or Loan Number	Debt Security or Source of Revenue	Debt Service Coverage Requirement	Rating	Original Debt Amount	Current Balance	Payment Amount	Interest Rate	Debt Term & Maturity Date
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/

Attach copies of the debt documents associated with the above debts.

RESOLUTION NO. 4320

A RESOLUTION OF THE BOARD OF DIRECTORS OF
OTAY WATER DISTRICT TO OBTAIN REIMBURSEMENT
TO FINANCE THE COST OF CONSTRUCTING AND
RECONSTRUCTING CERTAIN PUBLIC FACILITIES AND
IMPROVEMENTS

WHEREAS, the Otay Water District (the "Agency") desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water and wastewater system, including certain treatment facilities, pipelines and other infrastructure (the "Project"); and

WHEREAS, the Agency intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the Agency desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the Agency; and

WHEREAS, the Agency has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Agency for the Expenditures from the proceeds of the Obligations.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the Otay Water District resolves, determines and orders as follows:

1. The Agency hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

2. The reasonably expected maximum principal amount of the Project Funds is \$7,750,000.

3. This resolution is being adopted no later than 60 days after the date on which the Agency will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

4. Each Agency expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

5. To the best of our knowledge, this Agency is not aware of the previous adoption of official intents by the Agency that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

6. This resolution is adopted as official intent of the Agency in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

7. All the recitals in this Resolution are true and correct and this Agency so finds, determines and represents.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Otay Water District that the District finance the cost of constructing and reconstructing certain public facilities and improvements upon adoption of this resolution.

PASSED, APPROVED AND ADOPTED by the Board of Directors of Otay Water District at a board meeting held this 4th day of January 2017, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

President

ATTEST:

Secretary

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN DIEGO)

I, _____, Secretary of the Board of Directors of the Otay Water District, do hereby certify that the foregoing Resolution No. _____ was duly adopted by the Board of Directors of said District at a regular meeting thereof held on the 23rd day of March, 2016, and that it was so adopted by the following vote:

AYES:	DIRECTORS:
NOES:	DIRECTORS:
ABSENT:	DIRECTORS:
ABSTAIN:	DIRECTORS:

 Secretary of the Board of Directors
 of the Otay Water District

(SEAL)

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN DIEGO)

I, _____, Secretary of the Board of Directors of the Otay Water District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. _____ of said Board, and that the same has not been amended or repealed.

DATED: _____, 2016.

 Secretary of the Board of Directors
 of the Otay Water District

(SEAL)

RESOLUTION NO. 4321

A RESOLUTION OF THE BOARD OF DIRECTORS OF
OTAY WATER DISTRICT TO FILE AN APPLICATION
FOR A FINANCING AGREEMENT FROM THE STATE
WATER RESOURCES CONTROL BOARD (SWRCB) FOR
THE CAMPO ROAD SEWER REPLACEMENT PROJECT

WHEREAS, the Otay Water District (the "Agency") desires to file an application for a financing agreement from the State Water Resources Control Board (SWRCB) for the Campo Road Sewer Replacement Project (the "Project").

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Otay Water District that:

1) The General Manager (the "Authorized Representative") or designee is hereby authorized and directed to sign and file, for and on behalf of the Entity, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the Campo Road Sewer Replacement Project.

2) This Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.

3) The Authorized Representative, or his/her designee, is designated to represent the Entity in carrying out the Entity's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Entity and compliance with applicable state and federal laws.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Otay Water District at a board meeting held this 4th day of January 2017, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

President

ATTEST:

Secretary

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN DIEGO)

I, _____, Secretary of the Board of Directors of the Otay Water District, do hereby certify that the foregoing Resolution No. _____ was duly adopted by the Board of Directors of said District at a regular meeting thereof held on the 23rd day of March, 2016, and that it was so adopted by the following vote:

AYES:	DIRECTORS:
NOES:	DIRECTORS:
ABSENT:	DIRECTORS:
ABSTAIN:	DIRECTORS:

 Secretary of the Board of Directors
 of the Otay Water District

(SEAL)

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN DIEGO)

I, _____, Secretary of the Board of Directors of the Otay Water District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. _____ of said Board, and that the same has not been amended or repealed.

DATED: _____, 2016.

 Secretary of the Board of Directors
 of the Otay Water District

(SEAL)

RESOLUTION NO. 4322

A RESOLUTION OF THE BOARD OF DIRECTORS OF
OTAY WATER DISTRICT TO PLEDGE SEWER
OPERATING REVENUES AND/OR REPLACEMENT
RESERVES FOR THE CAMPO ROAD SEWER
REPLACEMENT PROJECT

WHEREAS, the Otay Water District (the "Entity") commits to collecting such revenues and maintaining such fund(s) throughout the term of such financing and until the Entity has satisfied its repayment obligation thereunder unless modification or change is approved in writing by the State Water Resources Control Board. So long as the financing agreement(s) are outstanding, the Entity's pledge hereunder shall constitute a lien in favor of the State Water Resources Control Board on the foregoing fund(s) and revenue(s) without any further action necessary. So long as the financing agreement(s) are outstanding, the Entity commits to maintaining the fund(s) and revenue(s) at levels sufficient to meet its obligations under the financing agreement(s).

NOW, THEREFORE, BE IT RESOLVED, the Otay Water District hereby dedicates and pledges Sewer Operating Revenues and/or Replacement Reserves for the Campo Road Sewer Replacement Project.

PASSED, APPROVED AND ADOPTED by the Board of Directors of Otay Water District at a board meeting held this 4th day of January 2017, by the following vote:

- Ayes:
- Noes:
- Abstain:
- Absent:

President

ATTEST:

Secretary

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN DIEGO)

I, _____, Secretary of the Board of Directors of the Otay Water District, do hereby certify that the foregoing Resolution No. _____ was duly adopted by the Board of Directors of said District at a regular meeting thereof held on the 23rd day of March, 2016, and that it was so adopted by the following vote:

AYES:	DIRECTORS:
NOES:	DIRECTORS:
ABSENT:	DIRECTORS:
ABSTAIN:	DIRECTORS:

 Secretary of the Board of Directors
 of the Otay Water District

(SEAL)

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN DIEGO)

I, _____, Secretary of the Board of Directors of the Otay Water District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. _____ of said Board, and that the same has not been amended or repealed.

DATED: _____, 2016.

 Secretary of the Board of Directors
 of the Otay Water District

(SEAL)

The drive by system has been cost effective for the District. There are 49,520 meters in service and that would require nine full-time meter readers to read all of the meters on a monthly basis. By moving to AMR, the District currently has three full-time meter readers. In addition, it has increased safety to staff and reduced the District's liabilities. In many parts of the District, there are areas without sidewalks and meters are located in steep and treacherous terrain. AMR has allowed meters in these areas to be read safely from a District vehicle. From a Customer Service perspective, the AMR technology allows historical, hourly, meter read data to be pulled from the meter to assist customers with unexplained usage increases. In addition, the system provides alerts for continuous usage (leaks), tampering and backflow detection.

Warranty

There is a 20-year warranty on the meters. The transponder and register have a 10-year full replacement with an additional 10-year prorated warranty.

Meter Performance

Meter performance can be broken down into the performance of the register/transponder and the performance of the meter itself. Since the first Master Meter was installed, the District has experienced less than a .15% annual meter failure rate. This year, staff has done periodic testing of our oldest meters and all continue to perform above AWWA standards.

Automated Reading Performance

In order to read the meter remotely, a transponder is embedded inside the meter register which communicates to data collectors located within the meter readers' vehicles. When the battery on a transponder drains, the transmission is compromised and reads are no longer picked up remotely. Failure of the transponder does not impact the register itself and meters that are not transmitting a read electronically can still be read manually.

The battery life was fully warranted up to 10 years and then prorated up to 20 years, however, the vendor recently suggested the possible life cycle was 12 or 13 years. In the past three years, the total failure rate had maintained a steady but manageable increase of approximately .4% per year. In the past few months the overall failure rate has increased and is now nearing an unmanageable level. Beginning in August of this year, staff began to see a large increase in the number of transponder failures from meters that were installed in 2006. These transponders have just moved from the 10-year full replacement warranty to the prorated 11th year. At 11 years, the warranty requires the customer (Otay) pay 30% of the list price of the product which currently calculates to \$91.50 per register.

Master Meter, Inc. Performance

Master Meter, Inc. has proven to be a cooperative and valuable partner in the District’s transition to AMR. The company has worked closely with staff to assist with any product issues and has been extremely responsive to service requests. Staff has been pleased with Master Meter’s commitment to the integrity of their products.

Change out Recommendation

Given the large increase in failing transponders, staff recommends a replacement of all 2006 registers by June 2017. These meters were installed in groups within the same timeframe, so it is expected that the overall failure rate will continue to escalate at a rapid pace as additional batteries wear down.

Staff recommends replacement of the register only, for 8,000 of the 8,500 meters installed in 2006. Replacing only the register will save the District approximately \$700,000. Given the 20-year warranty on the mechanics of the meter, independent testing done by a meter testing facility, and staff’s own testing of the meters, staff believes the meters will continue to function within AWWA standards through the 20-year time frame. Staff is recommending a full meter change out of the remaining 500 meters from 2006 which include high water users and all 1.5” or 2” meters.

As was done with the previous change out program, staff plans to contract with an outside vendor to do the register change outs. The labor cost of the change out program is not included in the requested budget amount. The bid process is currently underway and staff will be bringing the contract for installation services to the Board in February along with a corresponding request to increase the budget. Otag employees will be used for any difficult or sensitive meter change outs. IT, Customer Service and Purchasing staff will work with the Contractor to ensure the change out process runs smoothly with as little impact to the customers as possible.

Budget Request

Below is a breakdown of the total budgeted amount.

Description	Quantity	Cost
Transponders	8,000	\$960,000
Meters and Transponders	500	\$190,000
Total Budget for 2017		\$1,150,000

This request is to establish the CIP for the meter change out program and authorize a budget of \$1.15 million in this fiscal year, which is a change to the 2017 CIP budget. At the time the 2017 CIP budget was prepared it was not anticipated that the battery life of the transponders would fail in such large numbers. While staff had anticipated and were actively planning for a District-wide meter change out program, there was no evidence that the need was imminent. The District was one of the very first customers to use these AMR meters and as a result the battery lives of the transponders was not well understood. While it is not unreasonable for the battery failures to occur after 11 years, a recent and rapid increase in battery failures requires that the District advance and begin the meter replacement program.

The change out program is not just a single year program. This program will likely span over a 7 year period and then become a perpetual replacement program. In the upcoming budgetary process, staff will include this in the 2018 CIP and will outline the expected budget for the next six years.

Meter Technology

In the past 10 years, meter reading technology has shifted to a focus on Advanced Metering Infrastructure (AMI). AMI is a fixed based electronic reading technology. It creates an infrastructure of data collectors at certain strategic points throughout the utility's service area to allow individual meters to relay meter data straight to the office. This eliminates the need for an employee to drive by the meter to get reads. Staff has been monitoring this technology and has been receiving updates from various companies that offer AMI systems. There can be a large cost involved with an AMI system because of the requirements of multiple data collectors to receive signals from the various meters. Staff is not ready to recommend the move to AMI technology at this time. Given the District covers a large area and has varied topography, the infra-structure required to move to an AMI system would be significant. Staff will be evaluating this option in greater detail and preparing a comprehensive recommendation later this year.

Master Meter's newest AMR product, Allegro, has the ability to transition to AMI should the District decide to pursue this in the future. Allegro has improved transmission time and distance over the District's current 3G product. Operating at 450 MHz band, this licensed frequency creates a secure channel for the District's meter to communicate. The current meters operate on an open 900 MHz frequency. The lower 450 MHz frequency allows for a larger transmission area and increased propagation in and around structures. This allows for more meters to be read within a larger area and at a faster speed.

In addition, Master Meter has made strides to extend the battery life of this newest product. The current 3G register transmits a signal every 11 seconds. The Allegro register, while in AMR mode, will only transmit when the meter reading is within range with the reading software turned on. Like the 3G product, all meter read data is stored with the Allegro register so historical data and all alarms can still be collected.

Consistent with their strong commitment to Otay as a customer, Master Meter has agreed to allow the District to purchase their newest register, with all of its benefits, at the price of the older 3G product.

Future Replacements

Staff will continue to look at other meter technologies and will come back to the Board later this year, with a recommendation on the comprehensive 7 year change out program as well as an update on the status of this batch of change outs.

FISCAL IMPACT: Joe Beachem, Chief Financial Officer

This action establishes the Capital Improvement Project AMR Change Out program budget of \$1,150,000 for fiscal year 2017. While this expenditure was not incorporated into the planned rates, the District has sufficient financial flexibility to fund this program earlier than anticipated. The replacement reserve is projected to be \$11.3 million over target at the end of fiscal year 2017, and due to the strong water sales this year the general fund is currently anticipated to be \$2 million more than budgeted.

STRATEGIC GOAL:

Improve and streamline meter related processes.

LEGAL IMPACT:

None.

Attachments:

- A) Committee Action Form
- B) Presentation



ATTACHMENT A

SUBJECT/PROJECT:	Authorize the Creation of an Automated Meter Reading (AMR) Change Out Capital Improvement Program (CIP) Project in the Amount of \$1,150,000 for the Current Fiscal Year
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COMMITTEE ACTION:

That the Board approve the Finance, Administration and Communications Committee recommendation to authorize the creation of an Automated Meter Reading (AMR) change out Capital Improvement Program (CIP) Project in the amount of \$1,150,000 for the current fiscal year.

NOTE:

The "Committee Action" is written in anticipation of the Committee moving the item forward for board approval. This report will be sent to the Board as a committee approved item, or modified to reflect any discussion or changes as directed from the committee prior to presentation to the full board.

Automated Meter Reading Change Out CIP

Otay Water District
Board of Directors Meeting
January 4, 2017

Background

- In December 2005, the District contracted with Master Meter, Inc. to provide meters equipped with Automated Meter Reading (AMR) technology.
- From 2005-2012, the District changed out all 3/4-2" meters to the Master Meter 3G metering system.

Benefits

- Reduction in meter reading staff
- Increased safety in meter reading
- Technology stores historical hourly water usage
- Provides leak, tamper and backflow alarms

AMR Technology

A transponder is embedded in the meter's register and communicates to data collectors located within the meter readers' vehicles. When the battery drains, the transmission is compromised and reads can no longer be picked up remotely. Therefore, the meter reader will have to manually read these meters.



Performance

- Overall meter performance is less than .15% failure per year
- From 2012-2015, the total failure rate of transponders was increasing at a rate of .4% per year

2016 Transponder Performance

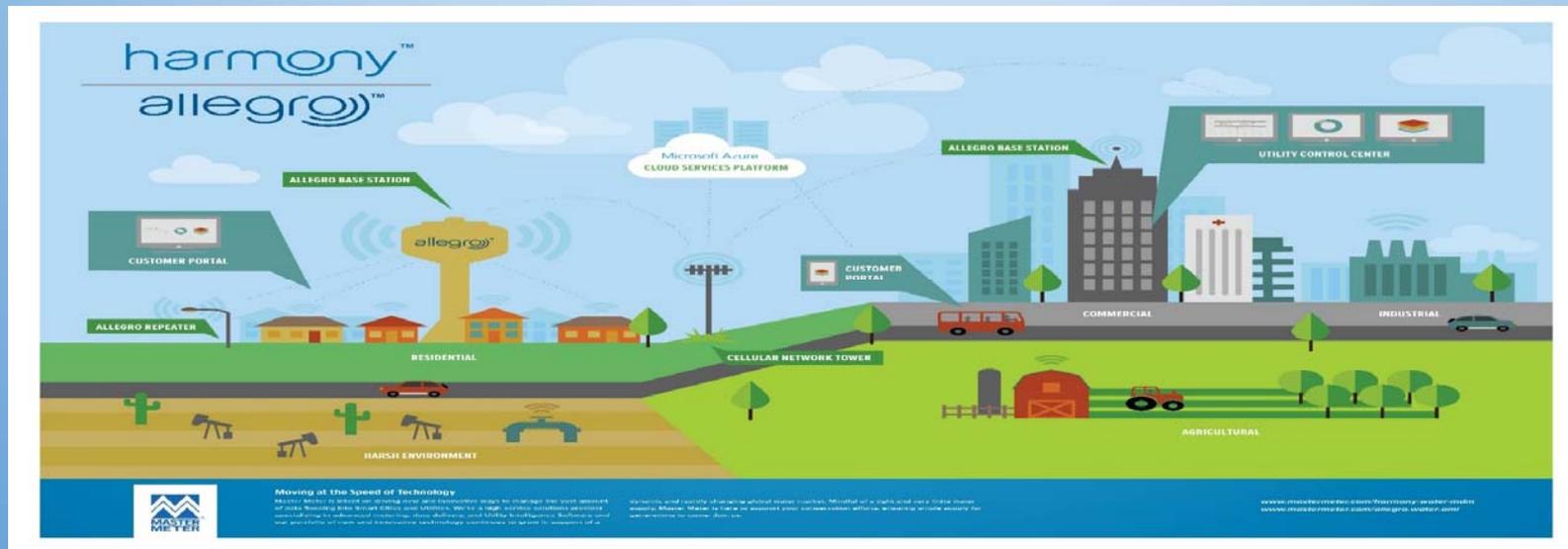
- Increase in failures from 2006 transponders
- Register warranty is 10-year full replacement/10-year prorated
- 2006 transponders are now in year 11
- Otay pays 30% of list price which is \$91.50 per register

Change out Recommendation

- Replacement of all 2006 registers by June 2017
- Replacement of registers only for 8,000 of 8,500 meters
- Full meter change out of 500
 - High Users
 - 1.5" & 2" Meters
- Contract with an outside vendor to complete change outs

Latest Technology Developments

- Advanced Metering Infrastructure (AMI)
 - Data collectors are positioned throughout service area
 - Meter reads sent straight to the office
 - Large cost associated with the infrastructure



Master Meter Allegro

- Hybrid product that allows both AMR & AMI
- All wires are encased in register
- Operates at a licensed 450 MHz frequency
 - Larger transmission area
 - Better transmission in and around structures
- Only transmits data when meter reader is in range

Staff Recommendation

- Replace all 2006 3G products with Master Meter's Allegro product
- Continue to research other technologies
- Return to the Board with a comprehensive seven-year change-out program

Board Action

- Staff requests the Board authorize the creation of an Automated Meter Reading change-out Capital Improvement Program project in the amount of \$1,150,000 from the Replacement Reserve.
- The breakdown of the total request is as follows:

Description	Quantity	Cost
Transponders	8,000	\$960,000
Meters and Transponders	500	\$190,000
Total Budget for 2017		\$1,150,000

Questions?

AGENDA ITEM 5



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 4, 2017
		PROJECT:	DIV. NO. ALL
SUBMITTED BY:	Kelli Williamson Human Resources Manager		
APPROVED BY:	<input checked="" type="checkbox"/> Adolfo Segura, Chief, Administrative Services <input checked="" type="checkbox"/> German Alvarez, Assistant General Manager <input checked="" type="checkbox"/> Mark Watton, General Manager		
SUBJECT:	ADOPT RESOLUTION #4324 TO UPDATE BOARD POLICY #47, POLICY AGAINST DISCRIMINATION, HARASSMENT, RETALIATION AND COMPLAINT PROCEDURE, AND BOARD POLICY #48, ADA/FEHA DISABILITY POLICY		

GENERAL MANAGER'S RECOMMENDATION:

That the Board adopt Resolution #4324 to update Board Policy #47, Policy Against Discrimination, Harassment, Retaliation and Complaint Procedure, and Board Policy #48, ADA/FEHA Disability Policy, due to recent legislative updates that include expanding the protected class and protected members definitions as well as requiring elected officials to attend harassment prevention training.

COMMITTEE ACTION:

Please see "Attachment A".

PURPOSE:

To request that the Board adopt Resolution #4324 to update Board Policy #47, Policy Against Discrimination, Harassment, Retaliation and Complaint Procedure, and Board Policy #48, ADA/FEHA Disability Policy, due to recent legislative updates that include expanding the protected class and protected members' definitions as well as requiring elected officials to attend harassment prevention training.

ANALYSIS:

Consistent with the District's Strategic Plan, the District regularly reviews policies and procedures to ensure they are streamlined and are clear and consistent with applicable laws.

Based on recent changes to the California legislation, District staff is recommending revisions to the attached Board Policy #47, Policy Against Discrimination, Harassment, Retaliation and Complaint Procedure, and Board Policy #48, ADA/FEHA Disability Policy (Attachment B). Updates are detailed below and revisions are shown in the attached strike-through copies of the policies (Exhibits 1 and 2).

Policy Against Discrimination, Harassment, Retaliation and Complaint Procedure (Board Policy #47)

The Policy Against Discrimination, Harassment, Retaliation and Complaint Procedure is being updated due to legislation expanding the protected classes to include religious dress and grooming practices, sex stereotype, transgender, breastfeeding and pregnancy-related medical conditions. The protected members' definition was also updated to include persons providing services pursuant to a contract with the District. In addition, there is now a requirement of a two-hour harassment prevention training for elected officials. The title of the policy was also updated to recognize that Retaliation is covered under the policy (Attachment C).

ADA/FEHA Disability Policy (Board Policy #48)

The ADA/FEHA Disability Policy is being updated with minor revisions that includes the title update to the referenced Policy #47 as well as pertinent updates as recommended by General Counsel (Attachment D).

The Association has agreed to the policies as presented and General Counsel has reviewed the proposed updates.

Based on the above, it is recommended that the Board of Directors adopt Resolution #4324 in support of the proposed revisions.

FISCAL IMPACT: Joe Beachem, Chief Financial Officer

None.

STRATEGIC GOAL:

Optimize the District's Operating Efficiency.

LEGAL IMPACT:

None.

ATTACHMENTS:

Attachment A - Committee Action Report

Attachment B - Resolution #4324

Exhibit 1 - Board Policy #47, Policy Against
Discrimination, Harassment, Retaliation and
Complaint Procedure

Exhibit 2 - Board Policy #48, ADA/FEHA Disability Policy

Attachment C - Proposed Copy, Board Policy #47, Policy Against
Discrimination, Harassment, Retaliation and
Complaint Procedure

Attachment D - Proposed Copy, Board Policy #48, ADA/FEHA Disability
Policy



ATTACHMENT A

SUBJECT/PROJECT:	ADOPT RESOLUTION #4324 TO UPDATE BOARD POLICY #47, POLICY AGAINST DISCRIMINATION, HARASSMENT, RETALIATION AND COMPLAINT PROCEDURE, AND BOARD POLICY #48, ADA/FEHA DISABILITY POLICY
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COMMITTEE ACTION:

The Finance, Administration and Communications Committee reviewed this item at a meeting held on December 13, 2016. The Committee supports presentation to the full Board for their consideration.

NOTE:

The "Committee Action" is written in anticipation of the Committee moving the item forward for Board approval. This report will be sent to the Board as a Committee approved item, or modified to reflect any discussion or changes as directed from the Committee prior to presentation to the full Board.

RESOLUTION NO. 4324

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE OTAY WATER DISTRICT TO
REVISE DISTRICT POLICY

WHEREAS, the Board of Directors of Otay Water District have established policies, procedures, ordinances, and resolutions for the efficient operation of the District; and

WHEREAS, it is the policy of the District to establish procedures to review policies, procedures, ordinances, and resolutions periodically to ensure they are current and relevant; and

WHEREAS, District staff has identified Board Policy #47, Policy Against Discrimination, Harassment, and Retaliation and Complaint Procedure, and Board Policy #48, ADA/FEHA Disability Policy, as requiring revisions as per the attached strike-through copies.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Otay Water District amends the Board Policies indicated above in the form presented to the Board at this meeting.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Otay Water District at a regular meeting held this 4th of January, 2017.

President

ATTEST:

Secretary

OTAY WATER DISTRICT
BOARD OF DIRECTORS POLICY

Subject: POLICY AGAINST DISCRIMINATION, AND HARASSMENT, <u>RETALIATION</u> AND COMPLAINT PROCEDURE	Policy Number	Date Adopted	Date Revised
	47	10/11/05	1/4/17 4/15

PURPOSE

~~The purpose of this policy is to (i) advise all employees, unpaid interns, and volunteers that t~~The Otay Water District ("District") disapproves of and will not tolerate unlawful discrimination or harassment of its employees, members of the Board of Directors, unpaid interns, or ~~volunteers,~~ job applicants or persons providing services pursuant to a contract with the District, or retaliation against those who report such behavior. This policy sets, ~~and (ii) set~~ forth a procedure for investigating and resolving internal complaints of discrimination, harassment, or retaliation.

DEFINITIONS

Discrimination - Any decision or action that is based on a District employee's, unpaid intern's, volunteer's, or job applicant's ~~an individual's~~ status as a member of a protected class that adversely affects ~~a District~~ the employee, unpaid intern, ~~or~~ volunteer, job applicant or his/her or the employee's, unpaid intern's, or volunteer's work conditions, terms of employment, or work environment.

Harassment - Any decision or action that is based on a District employee's, unpaid intern's, ~~or~~ volunteer's, or job applicant's status as a member of a protected class, ~~made for the purpose or having the effect of adversely affecting that employee's, unpaid intern's, or~~ volunteer's, or job applicant's ~~work conditions,~~ terms of employment, work conditions, or work environment. Harassment may include, but is not limited to:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs, or unwelcome ~~sexual advances,~~ invitations or comments;
- Visual displays such as derogatory ~~and/or sexually-oriented~~ posters, photography, cartoons, drawings or gestures;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work;

**OTAY WATER DISTRICT
BOARD OF DIRECTORS POLICY**

Subject: POLICY AGAINST DISCRIMINATION, AND HARASSMENT, <u>RETALIATION</u> AND COMPLAINT PROCEDURE	Policy Number	Date Adopted	Date Revised
	47	10/11/05	1/4/17 4/15

- ~~• Threats and demands to submit to sexual requests as a condition of continued employment or to avoid an adverse consequence, and offers of employment benefits in return for sexual favors.~~

Such conduct constitutes harassment when (1) submission to the conduct is made as either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual Harassment - Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, or verbal, visual, or physical conduct pertaining to a person's sex (including pregnancy, childbirth, breastfeeding or related medical conditions) and/or of a sexual nature, when submission to such conduct is committed by a supervisor, co-worker, or a non-employee, in the work setting, under any of the following conditions:

1. Submission to the conduct is explicitly or implicitly made as a term or condition of employment, progress, or participation in a District employment activity; or
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment decisions affecting the individual; or
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment.

Examples of actions that might constitute sexual harassment, include but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments; overly personal conversations; pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs; epithets; threats;

**OTAY WATER DISTRICT
BOARD OF DIRECTORS POLICY**

Subject: POLICY AGAINST DISCRIMINATION, AND HARASSMENT, <u>RETALIATION</u> AND COMPLAINT PROCEDURE	Policy Number	Date Adopted	Date Revised
	47	10/11/05	<u>1/4/17</u> 3/4 4/15

innuendoes; derogatory comments; sexual descriptions; degrading comments; or the spreading of sexual rumors.

2. Unwelcome visual conduct such as drawings, pictures, photographs, or gestures; sexual emails; display of sexually explicit or suggestive objects.

3. Unwelcome physical conduct such as massaging, rubbing, grabbing, fondling, stroking, brushing of the body; touching in an unwanted and/or sexual manner; cornering, blocking, leaning on or over, or impeding normal walking, movements, or standing.

4. Threats and demands to submit to sexual requests as a condition of continued employment, condition for advancement in pay, position or authority or to avoid an adverse consequence, and offers of employment benefits in return for sexual favors.

Two general categories of sexual harassment exist: (1) Quid pro quo, meaning "this for that" such as submission to sexual conduct as a condition of employment, benefits or terms and conditions of employment, and (2) Hostile work environment, meaning the sexual conduct is so severe, persistent, or pervasive that it creates an intimidating, demeaning, hostile, or offensive environment that unreasonably interferes with an employee's job performance.

Protected Class - Any class of persons who share a common sex, race, color, religious creed including religious dress and grooming practices, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other "protected class" recognized by federal, state or local laws. For purposes of this definition, "sex" includes gender, gender identity, gender expression, sex stereotype, transgender, pregnancy, childbirth, breastfeeding, or a pregnancy-related or childbirth-related medical condition.

OTAY WATER DISTRICT
BOARD OF DIRECTORS POLICY

Subject: POLICY AGAINST DISCRIMINATION, AND HARASSMENT, <u>RETALIATION</u> AND COMPLAINT PROCEDURE	Policy Number	Date Adopted	Date Revised
	47	10/11/05	1/4/17 4/15

Retaliation - Any decision or action that is based on the fact that a District employee, unpaid intern, ~~or~~ or job applicant has previously complained of Discrimination, Harassment, or Retaliation prohibited by this Policy (regardless of whether a formal complaint has been made) or has provided evidence in the investigation of another District employee's, unpaid intern's, ~~or~~ volunteer's or job applicant's complaint under this Policy, made for the purpose of adversely affecting the employee's, unpaid intern's, or volunteer's conditions of employment, terms of employment, or work environment.

~~**Sexual Harassment** - A form of harassment that is based on an employee's, unpaid intern's, or volunteer's gender but which objectively and subjectively creates an adverse impact on the employee, unpaid intern, or volunteer regardless of the purpose or intent of the alleged harasser.~~

POLICY

The District is committed to providing a work environment free of unlawful Discrimination, Harassment, or Retaliation against those who report Discrimination or Harassment. Discrimination or Harassment based on sex (including gender, gender identity, gender expression, sex stereotype, transgender, pregnancy, childbirth, breastfeeding, or related medical condition), race, color, religious creed including religious dress and grooming practices, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other basis protected by federal, state or local law is prohibited. Discrimination or Harassment based on the perception that a person has any of ~~those~~ the aforementioned characteristics, or is associated with a person who has or is perceived as having any of ~~those~~ the aforementioned characteristics, is prohibited. Retaliation against any person who complains of unlawful Discrimination or Harassment or who provides evidence relating to such a complaint, is prohibited.

**OTAY WATER DISTRICT
BOARD OF DIRECTORS POLICY**

Subject: POLICY AGAINST DISCRIMINATION, AND HARASSMENT, <u>RETALIATION</u> AND COMPLAINT PROCEDURE	Policy Number	Date Adopted	Date Revised
	47	10/11/05	1/4/17 4/15

This Policy applies to all terms and conditions of employment, including, but not limited to: hiring, placement, advancement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training. It applies to ~~every~~each District employee including management, regular, temporary or contract employees, members of the Board of Directors, unpaid interns, volunteers, job applicants and to persons providing services pursuant to a contract ~~all vendors conducting business~~ with the District. Similarly, the District will not tolerate ~~D~~iscrimination or ~~H~~arassment by its employees, unpaid interns, or volunteers of non-employees with whom the District employees, unpaid interns or volunteers have a business, service or professional relationship. The District will also take reasonable steps ~~attempt~~ to protect employees, unpaid interns, and volunteers from ~~H~~arassment by non-employees in the workplace. Training will be provided to management and the Board of Directors as required by law.

COMPLAINT PROCEDURE

An employee, unpaid intern, volunteer, or job applicant who believes he or she has been the victim of ~~D~~iscrimination, ~~H~~arassment, or ~~R~~etaliation by a District employee, a member of the Board of Directors, or a person providing services pursuant to a contract with the District ~~vendor~~ may make a complaint verbally, or in writing by completing the District's Discrimination and Harassment Complaint Form. An employee, unpaid intern, or volunteer may make a complaint to any of the following:

- Human Resources;
- Any supervisor, manager, Assistant Department Chief, Department Chief, Assistant General Manager, or General Manager;
- Complaints against the General Manager should be directed to the President of the Board of Directors.

Job Applicants, or persons providing services pursuant to a contract with the District may make a complaint to any of the following:

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- Human Resources or;
- General Manager.

Any person described above shall forward each written Discrimination complaint to the General Manager or designee immediately ~~upon~~ receiving the complaint or having knowledge of the complaint. If a complaint is made verbally, the person receiving the complaint shall notify Human Resources immediately.

Every reported complaint of Discrimination, Harassment or Retaliation will be investigated in a fair, timely and thorough manner ~~and promptly~~. If any manager, supervisor, Assistant Department Chief, Department Chief, or Assistant General Manager becomes aware of or suspects Discrimination, Harassment, or Retaliation against a District employee, unpaid intern, volunteer, or job applicant, or any allegation thereof, he/she must immediately notify the Human Resources Manager of the relevant facts and circumstances.

The General Manager or designee may conduct the investigation of alleged Discrimination, Harassment, or Retaliation, or may delegate responsibility for the investigation to another District management employee. If the complaint is against the General Manager, the President of the Board of Directors shall be responsible for conducting the investigation, assigning another management employee, or outside investigator, and overseeing the investigation. If the complaint is against the Board of Directors, the General Manager shall be responsible for contracting with an outside investigator to conduct the investigation. The Board will take appropriate action based on the findings.

During its investigation, the District shall take appropriate steps to protect the privacy of all parties involved and confidentiality will be maintained to the extent possible. However, this shall not be construed to justify refusing to inform a person who has been accused of violating this Policy of the identity of the complainant and witnesses against him/her. Reports of Discrimination, Harassment, or Retaliation may not be made anonymously, but

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information regarding any report and subsequent investigation will be disseminated on a "need to know" basis.

~~In the event that an investigation will take longer than 60 calendar days to complete, the investigator must notify the complainant of this fact prior to the expiration of 60 days and provide an anticipated completion date, in writing.~~

If a finding is made that Discrimination, Harassment, or Retaliation has occurred, the District shall take remedial action appropriate to the circumstances, which may include disciplinary action up to and including termination for an employee, separation from the internship or volunteer opportunity for an unpaid intern or volunteer who has violated this Policy, or sanctions for a person providing services pursuant to a contract with the District ~~vendor~~ who has violated this Policy.

Every District employee, unpaid intern, and volunteer has a duty to participate in good faith in any investigation conducted under this Policy. Failure to participate in good faith is a ground for disciplinary action appropriate to the circumstances. All employees, unpaid interns, and volunteers are encouraged to report in good faith Discrimination, Harassment, or Retaliation. The District will not tolerate Retaliation against any employee, unpaid intern, or volunteer making a good faith complaint of Discrimination, Harassment or Retaliation, or for cooperating in an investigation. However, reports made maliciously or in bad faith may subject an employee, unpaid intern, or volunteer to disciplinary action appropriate to the circumstances up to and including termination or separation from the internship or volunteer opportunity.

The action of filing~~making~~ a complaint with the District does not preclude a complainant from filing a complaint with the appropriate State or Federal agency. An employee, unpaid intern, volunteer, job applicant or a person providing services pursuant to a contract with the District ~~For information as to where to file a claim, an employee~~ may contact the Equal Employment Opportunity Commission at

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www.eeoc.gov or (213) 894-1000, or the Department of Fair Employment and Housing at www.dfeh.ca.gov or (800) 884-1684 to file a complaint, or for information relating to discrimination complaint procedures and requirements.

POLICY HISTORY

Human Resources Policy and Procedure, Effective August 4, 1993.
Board Policy adopted October 11, 2005.

OTAY WATER DISTRICT
BOARD OF DIRECTORS POLICY

Subject	Policy Number	Date Adopted	Date Revised
ADA/FEHA Disability Policy	48	05/03/06	1/4/17 /04/12

PURPOSE

To provide policies to encourage a bias free environment for disabled employees or for disabled persons who seek employment with the Otay Water District (District).

STATEMENT OF POLICY

It is the policy of the District not to discriminate on the basis of disability for employment or the provision of services. It is the intent of the District to provide disabled employees a bias free work environment, including prompt and equitable resolution of complaints alleging discrimination on the basis of a disability. The District will provide reasonable accommodation in compliance with the Americans with Disabilities Act ("ADA") and the Fair Employment and Housing Act ("FEHA") provided the requested accommodation does not create an undue hardship for the District or pose a direct threat to the health or safety of others in the workplace or to the requesting employee.

POLICY

General Provisions

The District has a commitment to ensure equal opportunities for disabled District employees. Every reasonable effort will be made to provide an accessible work environment. The District will not discriminate against disabled employees or job applicants in its employment practices (e.g. hiring, training, testing, transfer, promotion, compensation, benefits, discipline, termination).

Interactive Process

When the District becomes aware of a possible need for accommodation, ~~the~~ District will engage in the interactive process, as defined by the ADA and the FEHA, to determine whether an employee or job applicant ~~or employee~~ is able to perform his/her essential functions. As part of the interactive process, the District may invite the employee or job applicant and, if necessary, the employee or job applicant's health care provider, to meet. The employee may choose to have a third party present for support as an observer. However, this person may not act as a representative or attempt to negotiate on behalf of the employee. During the interactive process the District will examine possible reasonable accommodations that would allow the employee or job applicant to continue to perform the essential functions in his/her position or, if appropriate, be otherwise employed by the District.

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Complaints

Any District employee who believes that he/she has been discriminated against because of a physical or mental disability may file a discrimination complaint pursuant to the District's Policy 47, entitled "Policy Against Discrimination, ~~and~~ Harassment, Retaliation and Complaint Procedure".

Any job applicant who believes that he/she has been discriminated against because of a physical or mental disability may file a discrimination complaint by writing a formal letter to the District's Human Resources Manager.

The action of filing a complaint with the District does not preclude a complainant from filing a complaint with the appropriate State or Federal agency. An employee or job applicant may contact the Americans with Disability Act at www.ada.gov or (800)514-0301, or the Department of Fair Employment and Housing at www.dfeh.ca.gov or (800) 884-1684 to file a complaint, or for information relating to discrimination complaint procedures and requirements.

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Subject: POLICY AGAINST DISCRIMINATION, HARASSMENT, RETALIATION AND COMPLAINT PROCEDURE	Policy Number	Date Adopted	Date Revised
	47	10/11/05	1/4/17

PURPOSE

The Otay Water District ("District") disapproves of and will not tolerate unlawful discrimination or harassment of its employees, members of the Board of Directors, unpaid interns, volunteers, job applicants or persons providing services pursuant to a contract with the District, or retaliation against those who report such behavior. This policy sets forth a procedure for investigating and resolving internal complaints of discrimination, harassment, or retaliation.

DEFINITIONS

Discrimination - Any decision or action that is based on a District employee's, unpaid intern's, volunteer's, or job applicant's status as a member of a protected class that adversely affects the employee, unpaid intern, volunteer, job applicant or his/her work conditions, terms of employment, or work environment.

Harassment - Any decision or action that is based on a District employee's, unpaid intern's, volunteer's, or job applicant's status as a member of a protected class, made for the purpose or having the effect of adversely affecting that employee's, unpaid intern's, volunteer's, or job applicant's terms of employment, work conditions, or work environment. Harassment may include, but is not limited to:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs, or unwelcome invitations or comments;
- Visual displays such as derogatory posters, photography, cartoons, drawings or gestures;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work;

Such conduct constitutes harassment when (1) submission to the conduct is made as either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment

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interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual Harassment - Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, or verbal, visual, or physical conduct pertaining to a person's sex (including pregnancy, childbirth, breastfeeding or related medical conditions) and/or of a sexual nature, when submission to such conduct is committed by a supervisor, co-worker, or a non-employee, in the work setting, under any of the following conditions:

1. Submission to the conduct is explicitly or implicitly made as a term or condition of employment, progress, or participation in a District employment activity; or
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment decisions affecting the individual; or
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment.

Examples of actions that might constitute sexual harassment, include but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments; overly personal conversations; pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs; epithets; threats; innuendoes; derogatory comments; sexual descriptions; degrading comments; or the spreading of sexual rumors.
2. Unwelcome visual conduct such as drawings, pictures, photographs, or gestures; sexual emails; display of sexually explicit or suggestive objects.
3. Unwelcome physical conduct such as massaging, rubbing, grabbing, fondling, stroking, brushing of the body; touching

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in an unwanted and/or sexual manner; cornering, blocking, leaning on or over, or impeding normal walking, movements, or standing.

4. Threats and demands to submit to sexual requests as a condition of continued employment, condition for advancement in pay, position or authority or to avoid an adverse consequence, and offers of employment benefits in return for sexual favors.

Two general categories of sexual harassment exist: (1) Quid pro quo, meaning "this for that" such as submission to sexual conduct as a condition of employment, benefits or terms and conditions of employment, and (2) Hostile work environment, meaning the sexual conduct is so severe, persistent, or pervasive that it creates an intimidating, demeaning, hostile, or offensive environment that unreasonably interferes with an employee's job performance.

Protected Class - Any class of persons who share a common sex, race, color, religious creed including religious dress and grooming practices, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other "protected class" recognized by federal, state or local laws. For purposes of this definition, "sex" includes gender, gender identity, gender expression, sex stereotype, transgender, pregnancy, childbirth, breastfeeding, or a pregnancy-related or childbirth-related medical condition.

Retaliation - Any decision or action that is based on the fact that a District employee, unpaid intern, volunteer or job applicant has previously complained of Discrimination, Harassment, or Retaliation prohibited by this Policy (regardless of whether a formal complaint has been made) or has provided evidence in the investigation of another District employee's, unpaid intern's, volunteer's or job applicant's complaint under this Policy, made for the purpose of adversely affecting the employee's, unpaid intern's, or volunteer's conditions of employment, terms of employment, or work environment.

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POLICY

The District is committed to providing a work environment free of unlawful Discrimination, Harassment, or Retaliation against those who report Discrimination or Harassment. Discrimination or Harassment based on sex (including gender, gender identity, gender expression, sex stereotype, transgender, pregnancy, childbirth, breastfeeding, or related medical condition), race, color, religious creed including religious dress and grooming practices, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other basis protected by federal, state or local law is prohibited. Discrimination or Harassment based on the perception that a person has any of the aforementioned characteristics, or is associated with a person who has or is perceived as having any of the aforementioned characteristics, is prohibited. Retaliation against any person who complains of unlawful Discrimination or Harassment or who provides evidence relating to such a complaint, is prohibited.

This Policy applies to all terms and conditions of employment including, but not limited to: hiring, placement, advancement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training. It applies to every District employee including management, regular, temporary or contract employees, members of the Board of Directors, unpaid interns, volunteers, job applicants and to persons providing services pursuant to a contract with the District. Similarly, the District will not tolerate Discrimination or Harassment by its employees, unpaid interns, or volunteers of non-employees with whom the District employees, unpaid interns or volunteers have a business, service or professional relationship. The District will also take reasonable steps to protect employees, unpaid interns, and volunteers from Harassment by non-employees in the workplace. Training will be provided to management and the Board of Directors as required by law.

COMPLAINT PROCEDURE

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An employee, unpaid intern, volunteer, or job applicant who believes he or she has been the victim of Discrimination, Harassment, or Retaliation by a District employee, a member of the Board of Directors, or a person providing services pursuant to a contract with the District may make a complaint verbally, or in writing by completing the District's Discrimination and Harassment Complaint Form. An employee, unpaid intern, or volunteer may make a complaint to any of the following:

- Human Resources;
- Any supervisor, manager, Assistant Department Chief, Department Chief, Assistant General Manager, or General Manager;
- Complaints against the General Manager should be directed to the President of the Board of Directors.

Job applicants, or persons providing services pursuant to a contract with the District may make a complaint to any of the following:

- Human Resources or;
- General Manager.

Any person described above shall forward each written Discrimination complaint to the General Manager or designee immediately upon receiving the complaint or having knowledge of the complaint. If a complaint is made verbally, the person receiving the complaint shall notify Human Resources immediately.

Every reported complaint of Discrimination, Harassment or Retaliation will be investigated in a fair, timely and thorough manner. If any manager, supervisor, Assistant Department Chief, Department Chief, or Assistant General Manager becomes aware of or suspects Discrimination, Harassment, or Retaliation against a District employee, unpaid intern, volunteer, or job applicant, or any allegation thereof, he/she must immediately notify the Human Resources Manager of the relevant facts and circumstances.

The General Manager or designee may conduct the investigation of alleged Discrimination, Harassment, or Retaliation, or may delegate

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responsibility for the investigation to another District management employee. If the complaint is against the General Manager, the President of the Board of Directors shall be responsible for conducting the investigation, assigning another management employee, or outside investigator, and overseeing the investigation. If the complaint is against the Board of Directors, the General Manager shall be responsible for contracting with an outside investigator to conduct the investigation. The Board will take appropriate action based on the findings.

During its investigation, the District shall take appropriate steps to protect the privacy of all parties involved and confidentiality will be maintained to the extent possible. However, this shall not be construed to justify refusing to inform a person who has been accused of violating this Policy of the identity of the complainant and witnesses against him/her. Reports of Discrimination, Harassment, or Retaliation may not be made anonymously, but information regarding any report and subsequent investigation will be disseminated on a "need to know" basis.

If a finding is made that Discrimination, Harassment, or Retaliation has occurred, the District shall take remedial action appropriate to the circumstances, which may include disciplinary action up to and including termination for an employee, separation from the internship or volunteer opportunity for an unpaid intern or volunteer who has violated this Policy, or sanctions for a person providing services pursuant to a contract with the District who has violated this Policy.

Every District employee, unpaid intern, and volunteer has a duty to participate in good faith in any investigation conducted under this Policy. Failure to participate in good faith is a ground for disciplinary action appropriate to the circumstances. All employees, unpaid interns, and volunteers are encouraged to report in good faith Discrimination, Harassment, or Retaliation. The District will not tolerate Retaliation against any employee, unpaid intern, or volunteer making a good faith complaint of Discrimination, Harassment or Retaliation, or for cooperating in an investigation. However, reports made maliciously or in bad faith

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may subject an employee, unpaid intern, or volunteer to disciplinary action appropriate to the circumstances up to and including termination or separation from the internship or volunteer opportunity.

The action of filing a complaint with the District does not preclude a complainant from filing a complaint with the appropriate State or Federal agency. An employee, unpaid intern, volunteer, job applicant or a person providing services pursuant to a contract with the District may contact the Equal Employment Opportunity Commission at www.eeoc.gov or (213) 894-1000, or the Department of Fair Employment and Housing at www.dfeh.ca.gov or (800) 884-1684 to file a complaint, or for information relating to discrimination complaint procedures and requirements.

POLICY HISTORY

Human Resources Policy and Procedure, Effective August 4, 1993.
Board Policy adopted October 11, 2005.

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Subject	Policy Number	Date Adopted	Date Revised
ADA/FEHA Disability Policy	48	05/03/06	1/4/17

PURPOSE

To provide policies to encourage a bias free environment for disabled employees or for disabled persons who seek employment with the Otay Water District (District).

STATEMENT OF POLICY

It is the policy of the District not to discriminate on the basis of disability for employment or the provision of services. It is the intent of the District to provide disabled employees a bias free work environment, including prompt and equitable resolution of complaints alleging discrimination on the basis of a disability. The District will provide reasonable accommodation in compliance with the Americans with Disabilities Act ("ADA") and the Fair Employment and Housing Act ("FEHA") provided the requested accommodation does not create an undue hardship for the District or pose a direct threat to the health or safety of others in the workplace or to the requesting employee.

POLICY

General Provisions

The District has a commitment to ensure equal opportunities for disabled District employees. Every reasonable effort will be made to provide an accessible work environment. The District will not discriminate against disabled employees or job applicants in its employment practices (e.g. hiring, training, testing, transfer, promotion, compensation, benefits, discipline, termination).

Interactive Process

When the District becomes aware of a possible need for accommodation, the District will engage in the interactive process, as defined by the ADA and the FEHA, to determine whether an employee or job applicant is able to perform his/her essential functions. As part of the interactive process, the District may invite the employee or job applicant and, if necessary, the employee or job applicant's health care provider, to meet. The employee may choose to have a third party present for support as an observer. However, this person may not act as a representative or attempt to negotiate on behalf of the employee. During the interactive process the District will examine possible reasonable accommodations that would allow the employee or job applicant to continue to perform the essential functions in his/her position or, if appropriate, be otherwise employed by the District.

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Complaints

Any District employee who believes that he/she has been discriminated against because of a physical or mental disability may file a discrimination complaint pursuant to the District's Policy 47, entitled "Policy Against Discrimination, Harassment, Retaliation and Complaint Procedure".

Any job applicant who believes that he/she has been discriminated against because of a physical or mental disability may file a discrimination complaint by writing a formal letter to the District's Human Resources Manager.

The action of filing a complaint with the District does not preclude a complainant from filing a complaint with the appropriate State or Federal agency. An employee or job applicant may contact the Americans with Disability Act at www.ada.gov or (800)514-0301, or the Department of Fair Employment and Housing at www.dfeh.ca.gov or (800) 884-1684 to file a complaint, or for information relating to discrimination complaint procedures and requirements.