



# BOARD OF DIRECTORS

## Agenda Report

Administration Building  
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**File #:** 2023-2718

**Agenda Date:** 1/25/2023

**Agenda Item No:** 16.

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**FROM:** James D. Herberg, General Manager  
Originator: Lorenzo Tyner, Assistant General Manager

**SUBJECT:**

**CONTROL CENTER OFFICES & DAY TRAINING ROOM REMODELING AT PLANT NO. 1  
PROJECT NO. FR1-0007**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION:

Receive, file, and deny the claim submitted by Counsel for Thomas Solar Energy dated December 15, 2022 for Control Center Offices & Day Training Room Remodeling at Plant No. 1, Project No. FR1-0007.

**BACKGROUND**

Orange County Sanitation District (OC San) awarded a Contract to Thomas Solar Energy for Control Center Offices & Day Training Room Remodeling at Plant No. 1, Project No. FR1-0007, in June 2021. Thomas Solar Energy failed to perform in accordance with the contract and scope of work for the project. OC San pursued all contractual procedures and remedies, ultimately resulting in the termination of the contract in April 2022. Subsequently, OC San filed a claim against the contractor's performance bond and coordinated with the contractor's surety company, Liberty Mutual, who ultimately opted to tender payment of the penal sum. Counsel for Thomas Solar Energy has now submitted a claim based on the contract dispute.

**RELEVANT STANDARDS**

- Ensure the public's money is wisely spent

**PROBLEM**

Thomas Solar Energy has submitted a claim under the Government Code. The claim is without merit.

**PROPOSED SOLUTION**

Deny the claim submitted by Thomas Solar Energy.

**TIMING CONCERNS**

Denial of a Government Code claim, and notice thereof, triggers the running of the statute of limitations.

**RAMIFICATIONS OF NOT TAKING ACTION**

The statute of limitations will be longer.

**PRIOR COMMITTEE/BOARD ACTIONS**

N/A

**ADDITIONAL INFORMATION**

N/A

**CEQA**

N/A

**FINANCIAL CONSIDERATIONS**

This request complies with authority levels of OC San's Purchasing Ordinance. This item has been budgeted (Adopted Budget, Fiscal Years 2020-2021 and 2021-22, Section 8, Page 19,) and the budget is sufficient for the recommended action.

**ATTACHMENT**

*The following attachment(s) may be viewed on-line at the OC San website ([www.ocsan.gov](http://www.ocsan.gov)) with the complete agenda package:*

- Claim
- Contract