

OTAY WATER DISTRICT

BOARD OF DIRECTORS MEETING
DISTRICT BOARDROOM

2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CALIFORNIA

WEDNESDAY
February 1, 2012
3:30 P.M.

AGENDA

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. APPROVE THE MINUTES OF THE REGULAR MEETINGS OF JANUARY 4, 2012
5. 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

CONSENT CALENDAR

6. ITEMS TO BE ACTED UPON WITHOUT DISCUSSION, UNLESS A REQUEST IS MADE BY A MEMBER OF THE BOARD OR THE PUBLIC TO DISCUSS A PARTICULAR ITEM:
 - a) APPROVE THE ISSUANCE OF A PURCHASE ORDER TO HAWTHORN POWER SYSTEMS IN THE AMOUNT OF \$54,036.63 FOR THE PURCHASE OF TWO (2) EMERGENCY STAND-BY GEN-SETS FOR THE 1090-1 PUMP STATION AND THE OPERATIONS WAREHOUSE
 - b) ADOPT RESOLUTION NO. 4192 SUPPORTING THE SAN DIEGO COUNTY WATER AUTHORITY'S LAWSUIT AGAINST THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
 - c) APPROVE THE SELECTION OF UNION BANK FOR BANKING SERVICES
 - d) APPROVE THE ACQUISITION OF AN EASEMENT FROM THE CITY OF CHULA VISTA FOR THE 24-INCH WUESTE ROAD PIPELINE PORTION

OF THE RECYCLED WATER SUPPLY LINK PROJECT IN AN AMOUNT NOT-TO-EXCEED \$66,800

- e) APPROVE CHANGE ORDER NO. 3 TO THE EXISTING CONTRACT WITH MONTGOMERY WATSON HARZA FOR THE RALPH W. CHAPMAN WATER RECYCLING FACILITY UPGRADE PROJECT, IN AN AMOUNT NOT-TO-EXCEED \$21,500
- f) APPROVE THE INCREASE IN THE BUDGET FOR CIP P2370 IN THE AMOUNT OF \$25,000 (INCREASING THE OVERALL CIP BUDGET FROM \$1,210,000 TO \$1,235,000) AND AUTHORIZE DISTRICT STAFF TO SEND AN IMPROVEMENT NOTICE TO 63 CUSTOMERS SURROUNDING THE DORCHESTER RESERVOIR

ACTION ITEMS

7. BOARD

- a) PUBLIC HEARING ON REDISTRICTING
 - i. OTAY WATER DISTRICT, BECAUSE OF A SIGNIFICANT INCREASE IN THE POPULATION WITHIN ITS SERVICE AREA, AS MEASURED BY THE 2010 U.S. CENSUS, WILL BE ADJUSTING THE BOUNDARIES OF ITS FIVE (5) DIVISIONS TO EQUALIZE THE POPULATION WITHIN THOSE DIVISION BOUNDARIES PURSUANT TO CALIFORNIA WATER CODE §74430. THIS PUBLIC HEARING IS HELD TO PROVIDE AN OPPORTUNITY FOR THE PUBLIC TO VOICE OBJECTIONS AND/OR PRESENT PETITIONS TO THE BOARD REGARDING THE DISTRICT'S INTENT TO CHANGE THE BOUNDARIES OF ITS FIVE (5) DIVISIONS
 - ii. ADOPT RESOLUTION NO. 4187 OF THE BOARD OF DIRECTORS OF THE OTAY WATER DISTRICT REAPPORTIONING THE FIVE DIVISIONS WITHIN THE OTAY WATER DISTRICT
- b) DISCUSSION OF 2012 BOARD MEETING CALENDAR

8. FINANCE, ADMINISTRATION AND INFORMATION TECHNOLOGY

- a) APPROVE THE 2012 OTAY WATER DISTRICT LEGISLATIVE PROGRAM (BUELNA)
 - i. LEGISLATIVE UPDATE (DUNCAN McFETRIDGE, BROWNSTEIN, HYATT, FARBER AND SCHRECK)

9. ENGINEERING AND WATER OPERATIONS

- a) APPROVE THE INCREASE OF CIP BUDGETS FOR FOUR (4) CAPITAL IMPROVEMENT PROJECTS: (CAMERON) [10 minutes]
 - i. CIP S2019 IN AN AMOUNT NOT-TO-EXCEED \$150,000
 - ii. CIP S2020 IN AN AMOUNT NOT-TO-EXCEED \$50,000
 - iii. CIP S2022 IN AN AMOUNT NOT-TO-EXCEED \$20,000
 - iv. CIP S2026 IN AN AMOUNT NOT-TO-EXCEED \$30,000

FOR A TOTAL INCREASE OF \$250,000 AGAINST THE TOTAL BUDGET OF \$2,850,000; AND AWARD A CONSTRUCTION CONTRACT TO GARCIA JUAREZ CONSTRUCTION, INC. IN AN AMOUNT NOT-TO-EXCEED \$2,316,276 FOR THE AVOCADO BOULEVARD, CALAVO DRIVE, LOUISA DRIVE, HIDDEN MESA DRIVE SANITARY SEWER REPLACEMENT PROJECT

INFORMATIONAL ITEMS

- 10. THIS ITEM IS PROVIDED TO THE BOARD FOR INFORMATIONAL PURPOSES ONLY. NO ACTION IS REQUIRED ON THE FOLLOWING AGENDA ITEM:
 - a) INFORMATIONAL REPORT ON THE PROGRESS OF THE ARCHITECTURAL DESIGN AND STAFFS' SELECTION OF DESIGN OPTION ONE (1) FOR THE RANCHO DEL REY WELL PROJECT (MARCHIORO)

REPORTS

- 11. GENERAL MANAGER'S REPORT
 - a) SAN DIEGO COUNTY WATER AUTHORITY UPDATE
- 12. DIRECTORS' REPORTS/REQUESTS
- 13. PRESIDENT'S REPORT/REQUESTS

RECESS TO CLOSED SESSION

- 14. CLOSED SESSION
 - a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [GOVERNMENT CODE §54956.9]
 - (I) SALT CREEK GOLF, LLC, UNITED STATES BANKRUPTCY COURT, CASE NO. 11-13898-LA11
 - b) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [GOVERNMENT CODE §54956.9]

1 MATTER

RETURN TO OPEN SESSION

- 15. REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION. THE BOARD MAY ALSO TAKE ACTION ON ANY ITEMS POSTED IN CLOSED SESSION
- 16. ADJOURNMENT

All items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the Board.

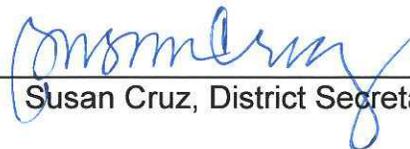
The Agenda, and any attachments containing written information, are available at the District's website at www.otaywater.gov. Written changes to any items to be considered at the open meeting, or to any attachments, will be posted on the District's website. Copies of the Agenda and all attachments are also available through the District Secretary by contacting her at (619) 670-2280.

If you have any disability which would require accommodation in order to enable you to participate in this meeting, please call the District Secretary at (619) 670-2280 at least 24 hours prior to the meeting.

Certification of Posting

I certify that on January 27, 2012, I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of Otay Water District, said time being at least 72 hours in advance of the regular meeting of the Board of Directors (Government Code Section §54954.2).

Executed at Spring Valley, California on January 27, 2012.



Susan Cruz, District Secretary

AGENDA ITEM 4

MINUTES OF THE BOARD OF DIRECTORS MEETING OF THE OTAY WATER DISTRICT and OTAY SERVICE CORPORATION January 4, 2012

1. The meeting was called to order by President Bonilla at 3:31 p.m.

2. ROLL CALL

Directors Present: Bonilla, Croucher, Gonzalez, Lopez and Robak

Staff Present: General Manager Mark Watton, Asst. GM Administration and Finance German Alvarez, Asst. GM Engineering and Water Operations Manny Magana, General Counsel Daniel Shinoff, Chief of Information Technology Geoff Stevens, Chief Financial Officer Joe Beachem, Chief of Engineering Rod Posada, Chief of Operations Pedro Porras, Chief of Administration Rom Sarno, District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. ELECTION OF BOARD PRESIDENT

A motion was made by Director Gonzalez, seconded by Director Croucher and carried with the following vote:

Ayes:	Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	None

to elect Director Lopez as President.

Director Lopez indicated that he recently retired from the San Diego Fire Department and is dedicated to continue his strong commitment to the Otay Water District. He stated that it is also his goal to continue to provide the assurance of quality services to the District's ratepayers.

5. ELECTION OF BOARD VICE PRESIDENT

A motion was made by Director Bonilla, seconded by Director Croucher and carried with the following vote:

Ayes:	Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	None

to elect Director Gonzalez as Vice President.

6. ELECTION OF BOARD TREASURER

A motion was made by Director Bonilla, seconded by Director Lopez and carried with the following vote:

Ayes:	Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	None

to elect Director Croucher as Treasurer.

7. APPROVAL OF AGENDA

A motion was made by Director Croucher, seconded by Director Bonilla and carried with the following vote:

Ayes:	Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	None

to approve the agenda.

8. RECESS FOR A PRESENTATION TO OUTGOING BOARD PRESIDENT AND RECEPTION

A presentation was provided for outgoing Board President Jamie Bonilla.

On behalf of the Board of Directors, Director Croucher thanked Director Bonilla for his dedicated services to the District and presented him with a Recognition Award for his services as President in the years 2001, 2006, 2010 and 2011. Director Croucher stated that one word comes to mind when describing Director Bonilla, "Honorable." He indicated that Director Bonilla has brought stabilization to the District and was very instrumental in the District's achievement in being the 6th lowest water provider of the 23 member agencies in San Diego County.

Director Bonilla thanked everyone for the Recognition Award and indicated that it is important to him because it is recognition from his peers. He stated that the award is not only for him, but also for the District employees. He stated that he highly respects the employees and is very proud of the work that they do on behalf of the District. He indicated that the District has grown to be one of the most efficient water agencies in the region.

The Otay Water District board meeting recessed at 3:42pm for a reception.

9. RECONVENE OTAY WATER DISTRICT BOARD MEETING

The Otay Water District board meeting reconvened at 3:59pm.

10. 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

Ms. Suzanne Till, Professor, Cuyamaca College, addressed the Board to thank the District for its interest in the Water Conservation Garden (Garden). She indicated that the District was instrumental in the establishment and use of the Garden and stated that the facility provides the opportunity for Cuyamaca College to apply for grants in science technology, engineering and math for the development of teachers and students. Ms. Till indicated that the college received a \$250,000 grant for two workshops: 1) Monarch Butterfly and 2) Climate Change. She stated that the Garden is a wintering place for butterflies and indicated that the Garden promotes water conservation which helps eliminate/reduce green gases for positive climate change. She shared because of the success of the two workshops, Cuyamaca College was able to apply for a \$1 million dollar grant from National Science Foundation to expand their programs.

Mr. Enrique Morones, owner of Puentes Latinos, addressed the Board with several concerns about the Union-Tribune's (UT) recent news article entitled "Otay Chairman's Allies Got Pacts." He indicated that he felt the article was an attack on his, and those named in the article, credibility and noted that the UT had published the names of only Latino consultants to the District. He stated that he felt that there was increased biased reporting at the UT since the firing of its three (3) most prominent Latino reporters. As a result, he formed a Latino Advisory Board for the UT in hopes to increase diversity at the executive level. Mr. Morones provided a history of his background that included a full scholarship to University of San Diego in which he received a Bachelor's and Master's degree in International Marketing and Executive Leadership. He indicated that he was the former President of the San Diego County Hispanic Chambers, former Vice President of Marketing for San Diego Padres, and now owns Puentes Latinos in which his clients include the Boston Red Sox, University of California San Diego, and restaurants (Coco's and Carrow's). In addition, Mr. Morones has been invited to speak at Universities such as Princeton, Notre Dame, and Yale to teach individuals about tolerance. He stated that he contacted Board President Jaime Bonilla and suggested that the District respond to the article to provide accurate information about the District. He indicated that with his experience, he believes he is highly qualified to provide services to the District.

Mr. Jon Gardner, public member, addressed the Board with his concerns about the UT article and stated that he felt compelled to voice his support for the District as he believes the District has worked hard to provide reliable water resources for its customers. He indicated that during the blackout in October 2011, the District was one of the very few water agencies who provided water services to its customers without any disruption. Mr. Gardner stated that

services occurred as normal because the District plans and prepares for the future. He indicated that he had sent four (4) positive news articles to the UT and the Voice of San Diego regarding the District, but none of the articles were ever published. Mr. Gardner noted that before the UT's recent report of the dry snowpack in 2012, which is where the majority of California's water supply comes from, the District had been researching other water supply sources, including desalination. He indicated his support for the District and stated that he felt it was doing a good job.

Mr. Mark Valdez, public member, addressed the Board to voice his outrage towards the UT's recent news article and stated that the District should be given a fair shake.

Mr. Peter Silva, Silva-Silva International, addressed the Board and stated that his company was one of the five contractors listed in the UT's news article. He indicated that he did speak with UT Watchdog reporter, Mr. Aaron Burgin, but he had not inquired about his credentials and only reported on his social relationship with Director Bonilla. Mr. Silva stated that he felt the UT's innuendo was that he had no credentials at all, but received a contract with the District because of his relationship with Director Bonilla. Mr. Silva provided a history of his credentials that include thirty-four (34) years of experience in the wastewater field which is essential to the District's desalination project.

Mr. Steve Castaneda, PRM Consulting, addressed the Board to indicate his displeasure with the UT's innuendo in its recent news article. He indicated that he wrote a letter to UT owner John Lynch. Mr. Castaneda read the letter into the record and provided a copy to the Board (attached).

11. RECESS OTAY WATER DISTRICT BOARD MEETING AND CONVENE A MEETING OF THE OTAY SERVICE CORPORATION

The Otay Water District board meeting was recessed at 4:25 p.m. and a meeting of the Otay Service Corporation board was convened.

12. ROLL CALL

Directors Present: Bonilla, Croucher, Gonzalez, Lopez and Robak

13. **ADOPT ORDINANCE NO. 100 OF THE OTAY SERVICE CORPORATION TO AMEND THE CORPORATION BYLAWS TO ADD AN OFFICER WITH THE TITLE OF EXECUTIVE DIRECTOR WHO SHALL BE IN CHARGE OF THE DAY-TO-DAY OPERATIONS OF THE CORPORATION**

A motion was made by Director Bonilla, seconded by Director Croucher and carried with the following vote:

Ayes:	Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes:	None
Abstain:	None

Absent: None

to adopt Ordinance No. 100 of the Otay Service Corporation to amend the Corporation Bylaws to add an officer with the title of Executive Director who shall be in charge of the day-to-day operations of the Corporation.

14. ELECTION OF OFFICERS: PRESIDENT, VICE-PRESIDENT AND TREASURER

A motion was made by Director Croucher, seconded by Director Bonilla and carried with the following vote:

Ayes: Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes: None
Abstain: None
Absent: None

to elect Director Lopez as President, Director Gonzalez as Vice President and Director Croucher as Treasurer.

15. APPOINTMENT OF OFFICERS: EXECUTIVE DIRECTOR, CHIEF FINANCIAL OFFICER AND SECRETARY

A motion was made by Director Croucher, seconded by Director Gonzalez and carried with the following vote:

Ayes: Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes: None
Abstain: None
Absent: None

to appoint General Manager Watton as Executive Director, Joe Beachem as Chief Financial Officer and District Secretary Susan Cruz as Secretary.

16. ADJOURN OTAY SERVICE CORPORATION BOARD MEETING AND RECONVENE THE OTAY WATER DISTRICT BOARD MEETING

President Lopez adjourned the Otay Service Corporation meeting at 4:28 p.m. and convened the Otay Water District board meeting.

17. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS OF SEPTEMBER 7, 2011, OCTOBER 5, 2011, AND NOVEMBER 2, 2011; AND SPECIAL MEETING OF NOVEMBER 30, 2011

A motion was made by Director Bonilla, seconded by Director Croucher and carried with the following vote:

Ayes: Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes: None

Abstain: None
Absent: None

to approve the minutes of the regular meetings of September 7, 2011, October 5, 2011, and November 2, 2011; and special board meeting of November 30, 2011.

18. REDISTRICTING WORKSHOP I

- a) RECEIVE REPORT REGARDING THE REDISTRICTING PROCESS AND LEGAL REQUIREMENTS, CONSIDER APPROVING THE RECOMMENDED CHANGES TO THE BOUNDARIES OF THE DISTRICT'S FIVE DIVISIONS (REDISTRICTING MAP), AND AUTHORIZE STAFF TO PROVIDE NOTICE TO THE PUBLIC OF THE DISTRICT'S INTENT TO CHANGE THE BOUNDARIES OF THE DIVISIONS OF THE DISTRICT AND TO HOLD A HEARING FOR THE PUBLIC COMMENT AT THE NEXT REGULAR BOARD MEETING PURSUANT TO GOVERNMENT CODE §74431 AND §74432

Mr. Steve Castaneda of PRM Consulting provided a workshop on redistricting for the Board to consider approving recommended changes to the District's five division boundaries.

Mr. Castaneda indicated that Federal and State law require that states, municipalities, and political subdivisions, redraw their voting district/division lines at least once every ten years coinciding with the release of the Federal decennial census. He stated that in March 2011 the results of the 2010 census were released. He began the District's redistricting process to ensure that voting districts reflect population changes and comply with voting rights statues. He stated that the District's Redistricting Project was completed in 2011.

Mr. Castaneda discussed the population changes that have occurred throughout the District's service area in the last ten years and also discussed the Voting Rights Act and its Standards in which the District must comply when preparing a redistricting plan. He indicated that the traditional criteria to be observed when preparing a redistricting plan include:

- District compactness
- Contiguity
- Avoiding splits of political subdivisions and precincts
- Preserving communities of interest
- Preserving basic shapes of existing districts
- Protecting incumbents and avoiding pairing of incumbents
- Political fairness or competitiveness
- Voter convenience and effective administration of elections

Mr. Castaneda indicated that Division 1 experienced a growth of 123% and skewed the population level, which would not be legal if it were ignored. He indicated that while each division population level need not be exact, they must

be substantially equal. He stated that the five redistricting options to be presented observes a maximum population deviation of +/- 5% of the mean and therefore adheres to the controlling legal standard.

He presented five different redistricting options for each of the District's five divisions, which included maps and population/demographic charts. He stated that the Redistricting Project was a bit of a challenge as the District's record of population figures was not matching the 2010 U.S. Census. He indicated that during the development of the initial population analysis, it was determined that the District's outer boundary split multiple census blocks. PRM developed a methodology to estimate partial block populations using parcel maps and County Assessor records. Mr. Castaneda noted that PRM also hand-counted parcels to estimate the District's population figures and stated that he believes the 207,946 estimate is very accurate.

Director Bonilla stated that he sat on the Ad Hoc Redistricting Committee and indicated that it was important to the committee that current sitting Directors stay within their divisions. He noted that PRM originally presented 15 different redistricting options and the Committee selected what was felt were the five best alternatives for presentation to the full Board.

General Counsel Dan Shinoff stated that the California Voters Rights Act has received much publicity with regard to claims filed challenging the lack of minorities on a board. He inquired how this analysis insulates the District's board from any potential litigation from a demographic perspective.

Mr. Castaneda stated that the District has over 2000 census blocks that have equal representation of various minorities/class and indicated that the previous redistricting plan was used as the benchmark and the Voters' Rights Act indicates that all class populations cannot decrease but they can increase when the new divisional boundaries are drawn. The proposed redistricting options meet this requirement.

Director Croucher indicated that the District had consulted another firm in 2007 and stated that the maps presented by the firm to the Board did not make sense. He said that the Board decided to scrap the firm's proposed maps and consulted with PRM. Director Croucher believes it was a good decision to use PRM because it is professional and uses the latest technology, census and community information. He indicated that he was very impressed with PRM's abilities and is proud to be associated with the firm.

In response to a question by Director Robak, Mr. Castaneda stated that PRM does have the District's previous demographics that were used to adjust its divisional lines in 2001 following the completion of the 2000 U.S. Census. He indicated that the proposed 2011 redistricting plan for the District does meet the Voters Rights Act and Standards requirement that redistricting plans be similar or improve the projected classes' ability to vote.

Director Robak inquired if the proposed maps factor in future growth. Mr. Castaneda stated that by law, the 2010 Census must be used for the District's redistricting plan; therefore future growth was not included in the maps. He noted that if there are any legal challenges to the District's 2011 redistricting plan, the 2010 Census would be the referenced.

A motion was made by Director Croucher, seconded by Director Lopez and carried with the following vote:

Ayes:	Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	None

to approve Option 5 for the redistricting of the District's five divisions (Redistricting Map), and authorize staff to provide notice to the public of the District's intent to change the boundaries of the divisions of the District and to hold a hearing for public comment at the next Regular Board meeting pursuant to Government Code §74431 and § 74432.

INFORMATIONAL ITEMS

19. THIS ITEM IS PROVIDED TO THE BOARD FOR INFORMATIONAL PURPOSES ONLY. NO ACTION IS REQUIRED ON THE FOLLOWING AGENDA ITEMS:

a) UPDATE ON DIRECTOR'S EXPENSES FOR THE 1ST QUARTER OF FISCAL YEAR 2012

Sean Prendergast, Finance Supervisor Payroll and Accounts Payable, presented the expenses for each director from July 1, 2011 thru September 30, 2011. He indicated that directors' expenses totaled \$3,800.37 for the first quarter of Fiscal Year 2012. It was projected that directors' expenses for Fiscal Year 2012 would total approximately \$15,200 based on the first three months of actual expenses.

Director Bonilla thanked the Board of Directors for their efforts in being fiscally responsible by keeping the District's expenses down by waiving some of their meeting per diems.

b) CAPITAL IMPROVEMENT PROGRAM STATUS REPORT FOR THE 1ST QUARTER OF FISCAL YEAR 2012

Mr. Daniel Kay, Associate Civil Engineer, presented the Quarterly CIP Budget Update and indicated that the overall expenditures through the first quarter of FY 2012 totaled approximately \$2.8 million, which is about 12% of the District's fiscal year budget.

He indicated that the District's FY 2012 CIP budget consists of 74 projects that total \$22.6 million and is divided into four categories:

- Capital Facilities= \$10.6 million
- Replacement/Renewal= \$9.1 million
- Capital Purchases= \$2.0 million
- Developer Reimbursement= \$0.9 million

The PowerPoint presentation included the following:

- Total Life-to-Date Expenditures
- CIP Budget Forecast vs. Expenditures
- Major CIP Projects
- CIP Projects in Construction
- Construction Contract Status thru September 30, 2011 of projects, contract amount with allowances, net change orders, percent of project completion, and estimated completion date
- Consultant Contract Status of contract amounts, approve payments to date, change orders, dates when contracts were signed and the end date of contracts
- Expenditures thru September 30, 2011

Mr. Kay presented a graphic comparison of 1st Quarter CIP expenditures and projected 2012 expenses and indicated that the forecast may change each fiscal year depending on the projects planned for construction.

c) **INFORMATIONAL REPORT REGARDING THE DISTRICT'S CONSULTANT SELECTION PROCESS**

Mr. Kay, Associate Civil Engineer, indicated that in response to a recent newspaper article regarding the District's selection of Infrastructure Engineers for As-Needed Traffic Engineering services, staff determined that an additional step be added to the District's selection process when hiring consulting firms.

He noted that District Policy 21 is the official policy for the selection of Professional Services Consultants, and that Engineering staff also uses a guideline for the selection process (copies of the policy and guideline are included with staffs' report). Staff stated that the guideline was updated to add a step in the selection process that would include an internet search (i.e., Google) for additional information about consulting firms.

Mr. Kay indicated that staff contacted various local agencies to inquire if they performed background checks and found that a majority of the agencies were consistent with the District's process and with industry standards. The result of that research is provided as Exhibit C to staff's report.

He stated that for General Consulting services contracts, such as financial, actuarial, public relations, safety, labor negotiations and relations, the guideline will also be updated to include background and reference checks consistent with the Professional Services Consultants selection process.

Mr. Kay stated that for public work construction contracts, the District will continue to check the references provided by the contractor and perform an internet search to check for any articles or references and also request the Contractor to submit their safety record from OSHA.

CONSENT ITEMS

20. ITEMS TO BE ACTED UPON WITHOUT DISCUSSION, UNLESS A REQUEST IS MADE BY A MEMBER OF THE BOARD OR THE PUBLIC TO DISCUSS A PARTICULAR ITEM:

A motion was made by Director Bonilla, seconded by Director Croucher and carried with the following vote:

Ayes:	Directors Bonilla, Croucher, Gonzalez, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	None

to approve the following consent calendar items:

- a) REJECT ALL CONSTRUCTION BIDS FOR THE 30-INCH POTABLE WATER PIPELINE IN HUNTE PARKWAY
 - b) TERMINATE CONTRACT WITH AS-NEEDED TRAFFIC CONSULTANT INFRASTRUCTURE ENGINEERS
 - c) APPROVE A PROFESSIONAL SERVICES CONTRACT TO ARCADIS/MALCOM PIRNIE FOR VALUE ENGINEERING AND CONSTRUCTABILITY REVIEW FOR THE RANCHO DEL REY GROUNDWATER WELL AND OTAY INTERCONNECT PIPELINE PROJECTS IN AN AMOUNT NOT-TO-EXCEED \$153,628
 - d) APPROVE THE ISSUANCE OF A PURCHASE ORDER TO SAN DIEGO FREIGHTLINER IN THE AMOUNT OF \$107,216.36 FOR THE PURCHASE OF ONE (1) CLASS 7 DUMP TRUCK
 - e) APPROVE THE ISSUANCE OF A PURCHASE ORDER TO TUTTLE CLICK TRUCK CENTER IN THE AMOUNT OF \$104,216.20 FOR THE PURCHASE OF ONE (1) CLASS 4 SERVICE LINE TRUCK
 - f) ADOPT RESOLUTION NO. 4191 TO REVISE AND UPDATE BOARD OF DIRECTORS POLICY NO.S 48, ADA/FEHA DISABILITY POLICY, AND 50, ANTIFRAUD POLICY
21. BOARD
- a) DISCUSSION OF 2011 BOARD MEETING CALENDAR

Director Croucher indicated that he will not be able to attend the September 5, 2012 Board meeting because he will be out-of-town for work.

General Manager Mark Watton indicated that the District will seek an alternative date for the July 4, 2012 Board meeting and it falls on the Independence Day holiday.

REPORTS

22. GENERAL MANAGER'S REPORT

In response to those who spoke during the public participation portion of the meeting, General Manager Watton commended Mr. Steve Castenada, PRM Consulting, and stated that his firm does have the expertise for the project that the District has retained his firm to perform. He indicated that the same is true for Mr. Enrique Morones and all the vendors assigned to the District's desalination project. General Manager Watton indicated that he met with Mr. Aaron Burgin, UT Watchdog reporter, to discuss the desalination project and its issues. He indicated how proud he was of the vendors who are involved with the desalination project and believes the District could not have a better group of consultants. He stated that he felt that the District has top notch consultants and a team who is second to none.

General Manager Watton indicated that the 1st snow survey reported .14" of snow, which the snow level is a record breaking absent and there may be a shortage in a year or two. He noted that one good snow year does not make a good water year in upcoming years.

General Manager Watton indicated that several handouts were provided to the Board, which included:

- Letter from the Office of the Mayor, City of Chula Vista and the Beautify Chula Vista Day committee
- PowerPoint presentation of County Water Authority's Water Purification/Demonstration Project
- PowerPoint presentation of County Water Authority's Fiscal Sustainability Project Overview
- County Water Authority's Newsletter about the San Vicente Tunnel and Pipeline System

He presented his report which included the District's involvement in Community Outreach and its participation in the 50th Annual Starlight Parade in Chula Vista, the Speakers Bureau Activities, Water Conservation School Program, the Mixed Meter Conversion Feasibility Study, that Chief of Information Technology Geoff Stevens conducted a presentation at a CIO Forum on, "Otay Communications Systems and Strategies," an update on the Banking Services RFP, that status of the Rancho del Rey Well Project, Mexico's request for water delivery, and Potable Water Purchases.

Director Robak inquired if the snow report included a prediction of what can be expected for the rest of the year. General Manager Watton stated that it is hard to predict because it has been unseasonably warm. Although the reservoirs are full, if normal rain patterns don't return, there may be a potential drought in 2013.

23. DIRECTORS' REPORTS/REQUESTS

Director Robak commented on the difficult press the District has been receiving and stated that he would like to make it clear that he wants the District to be portrayed in the best possible light. He indicated his concerns about the inaccuracies of the articles concerning the District and stated that he and the General Manager had talked about it last week. He requested that the District engage him in the District's business as he would like to know what is going on in terms of knowing the people who have been hired and what services they are providing. He felt that this was not always the case, but indicated that it does not mean that the District did not hire competent people. He indicated his concern that he was being interviewed by a reporter last week regarding several consultants and he did not have any idea that they have been hired and what they were doing. He stated that it put him in a pretty difficult position. He again requested that if the District is engaging people to provide services, he be informed of who these people are and what they are doing.

Director Croucher indicated that he was assigned to a CWA committee to review per diems to ensure directors are attending appropriate meetings. He was also assigned to CWA's Fiscal Sustainability workgroup.

Director Lopez commended Director Croucher and General Manager Watton for their involvement at CWA. He reported that he attended the District's holiday dinner and stated that it went well and that he enjoyed the event.

Director Gonzalez reported that he and his family participated in the 50th Annual Starlight Parade in Chula Vista on December 3rd. On December 6th he attended the South County Development Council Breakfast meeting.

24. PRESIDENT'S REPORT

President Bonilla reported on meetings he attended during the months of November and December 2011. He stated that on November 8 and December 2 he attended Ad Hoc Redistricting Committee meetings to discuss the redistricting of the District's divisional boundaries. He shared that on November 30 he attended the Otay WD Special Board meeting and approved a contract for General Counsel Services. On December 2 he attended an Agenda Briefing meeting to discuss items to be presented at the January 2012 board meeting. On December 28 he met with John Lynch, Vice Chairman and CEO of the Union Tribune. Director Bonilla indicated that Mr. Lynch invited him to toast in the New Year and to discuss the Union Tribune's plans and his interest in expanding its reach into the Hispanic community. He also indicated that he updated Mr. Lynch on a few Otay matters.

Director Bonilla stated that Mr. Lynch informed him of his plans for the UT and his plan to publish a newspaper for the Hispanic Community that would be as large as the UT and would be distributed throughout the region and across the border into Tijuana. Director Bonilla indicated that Mr. Lynch wished to inquire about his knowledge of the Hispanic market and any contacts that he may have in the news industry that may have an interest in partnering with the UT. Mr. Lynch also provided him a tour of the U-T newspaper and shared his plan to reorganize the UT to make it more efficient.

Director Bonilla stated that at the time he met with Mr. Lynch, he had no knowledge that Mr. Burgin's article would be published and believes that Mr. Lynch also had no knowledge based on his demeanor during their meeting.

Director Bonilla expressed his concerns regarding the article and felt that the article was unfair and unprofessional. He stated that he felt that it only discredits the UT because it was very poor reporting. He indicated that he understands that people who are running for elected positions will try to discredit others by making things up, but what he did not understand is somebody sitting on the District's board who doesn't know how to acknowledge what is the truth. For somebody to sit here and claim, "I wasn't aware of anything," is completely dishonest. Director Bonilla indicated that the District's business is presented in all of the District's reports and if anybody on the District's board asked every question and doubted everything, it was Director Robak.

Director Bonilla indicated that District records show that in 2006, Mr. Hector Mares' contract was presented to the board for approval. Director Bonilla stated that Director Robak is a coward for his comment to the U-T reporter that he was unaware of the consultant's contract.

Director Bonilla stated that while he was President of the Board for two years, he took it upon himself to instruct the General Manager to respond to any questions Director Robak may have to avoid accusations of hiding District business from him.

He stated that he believes that reporters know to contact Director Robak for negative District information, and therefore does not believe Director Robak's comment about being misquoted in the news article. He stated that Director Robak has discredited many people because he was not "man" enough to admit what he knew and his mistakes.

Director Bonilla also indicated that Director Robak attended a forum in Mexico City and that Hector Mares took him to Los Pinos which is the White House in Mexico City. He stated that he could not believe that Director Robak would deny knowing Mr. Mares and then imply that Mr. Mares is associated with Director Bonilla.

Director Bonilla suggested that the District write a letter to the U-T, directed to John Lynch, with all of the Public Participants' letters. He suggested that the

letter should be signed by him because he was the president at the time the news article was published. General Counsel Shinoff indicated that no action was required by the board because it was within his authority as President.

RECESS TO CLOSED SESSION

25. CLOSED SESSION

The board recessed to closed session at 5:51 p.m. to discuss the following matters:

- a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [GOVERNMENT CODE §54956.9]
 - (l) SALT CREEK GOLF, LLC, UNITED STATES BANKRUPTCY COURT, CASE NO. 11-13898-LA11

- b. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [GOVERNMENT CODE §54956.9(a)]
 - (l) MULTIPLE CASES RELATED TO THE FENTON BUSINESS CENTER AND FILED WITH THE SUPERIOR COURT OF THE COUNTY OF SAN DIEGO CONSOLIDATED UNDER CASE NO. 37-2007-00077024-CU-BC-SC

RETURN TO OPEN SESSION

26. REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION. THE BOARD MAY ALSO TAKE ACTION ON ANY ITEMS POSTED IN CLOSED SESSION

The board reconvened at 6:24 p.m. and General Counsel Daniel Shinoff indicated that no reportable actions were taken in closed session.

27. ADJOURNMENT

With no further business to come before the Board, President Lopez adjourned the meeting at 6:24 p.m.

President

ATTEST:

District Secretary



January 4, 2012

Mr. John Lynch
Vice Chairman and CEO
Union-Tribune
350 Camino de la Reina
San Diego, CA 92108-3092

Dear Mr. Lynch:

I am writing to convey my displeasure in the choice of your newspaper to include me in an article (Otay's Chairman's Allies Got Pacts) that ran last month. The article was riddled with inaccuracies, innuendo and shoddy reporting bordering on libel. First of all, the article inaccurately described the scope and value of the referenced contract. Second, the article was based on the nebulous idea of "ties" to an official without providing hard evidence or a definition of that concept. Most importantly, your writer implied that my company's only qualification was a relationship with Jaime Bonilla. That couldn't be further from the truth on all counts.

These implications are not only emblematic of questionable, gotcha journalism, but are potentially injurious to my family-owned business. As a third-generation San Diego resident, a longtime civic activist and volunteer, a second-term elected Chula Vista City Council Member and a small-business owner, I am disappointed in your newspaper. And as a longtime subscriber, I am hurt by the flagrant disregard shown toward my company's reputation in this instance.

My company, Profile Research & Marketing (PRM Consulting) was established in 1996 and specializes in demographic research and implementation planning. For 15 years, PRM Consulting has successfully completed approximately 60 contracts with values up to \$240,000 for public sector clients including the State of California, numerous cities, transit districts and MPO's throughout California. In each case, PRM was selected because of experience and qualifications. And I believe that I can refer to all past and present clients as friends.

With respect to the contract mentioned in the story, I was requested by the General Manager to provide a proposal for the demographic and mapping work, based on the successful completion of a similar project 10 years ago. My company has performed high-quality demographic and GIS (geographic information systems) work with extensive written documentation to the District, and I am confident that the work product withstands any scrutiny. As for my personal relationship with Otay's Chairman, I do not regularly socialize or have business dealings with Mr. Bonilla, although I respect him as a dedicated civic leader in the South County. Although Aaron Burgin had no independent evidence to the contrary, he wrote a story that left readers with an impression that we were close personal friends. Furthermore, Mr. Burgin made false statements in comments below the story indicating – again, falsely – that the contract has no oversight other than "oral reports" to the General Manager.

It's clear that Mr. Burgin's sole intent was to write a negative article based on no more than innuendo, inaccuracies and sensationalism. At the very least your reporter should have waited to inspect the work product before inflaming the public. I ask for nothing more than an accurate depiction of the work that was done.

Thank you,

A handwritten signature in black ink that reads "Steve Castaneda". The signature is fluid and cursive, with a prominent initial "S".

Steve Castaneda

1010 Second Avenue, Suite 2370
San Diego, California 92101
619.955.5177



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 1, 2012
SUBMITTED BY:	Frank Anderson, Utility Services Manager <i>F.A.</i>	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Pedro Porras, Chief, Water Operations <i>[Signature]</i>		
APPROVED BY: (Asst. GM):	Manny Magaña, Assistant General Manager, Engineering & Operations		
SUBJECT:	Approval to Purchase Replacement Emergency Stand By Gen-Sets		

GENERAL MANAGER'S RECOMMENDATION:

That the Board authorizes the General Manager to issue a purchase order to Hawthorn Power Systems in the amount of \$54,036.63 for the purchase of two (2) emergency stand-by gen-sets for the 1090-1 Pump Station and Operations Warehouse.

COMMITTEE ACTION: _____

See Attachment "A".

PURPOSE:

To obtain Board authorization to purchase emergency stand-by gen-sets for the 1090-1 Pump Station and Operations Warehouse.

ANALYSIS:

CIP P2366-"APCD Engine Replacements and Retrofits," provides funding for the repair, retrofit or replacement of District assets in order to comply with APCD air standard requirements. One (1) existing portable District gen-set is scheduled for replacement with a fixed unit due to its age, APCD restrictions on portable back-up generators, and Diesel engine exhaust displacement.

The second gen-set is being purchased to retrofit the Operations Warehouse with permanent back-up power to circumvent external connections to existing portable back-up generators. Currently, there is no emergency power at the Operations Warehouse. This building houses the emergency reponse supplies, office staffing for Meter Maintenance, Recycled Water Operators, Pump/Electric, Buildings and Grounds and also supplies power to the District's fuel pumps.

Based on system operation evaluations of work and District needs by Fleet supervision and management, it is recommended that two (2) new gen-sets be purchased; one (1) to replace an older gen-set unit and evaluate it for alternate uses and/or declared surplus and another new unit to be installed in the warehouse to improve any emergency response.

It should be noted that the existing portable gen-set is 13 years old. Its replacement would also reduce the District's fuel, maintenance and repair costs. These purchases will also noticeably reduce the District's Diesel emissions output as the new gen-sets are Tier 3 which complies with APCD Diesel emissions standards for new gen-sets.

In accordance with District policy, bids were solicited for the new gen-sets. Three (3) bids were received for each gen-set. Prices received include all applicable fees and taxes and delivery.

944-1 81 Kw Gen-Set

Dealer	Gen-Set Bid	Bid Price
Hawthorn Power Systems	Cummins Diesel Gen-Set	\$26,500.04
Bay City Electric	Cummins Diesel Gen-Set	\$27,536.00
Cummins Cal Pacific LLC.	Cummins Diesel Gen-Set	\$29,543.97

1090-1 100 Kw Gen-Set

Dealer	Gen-Set Bid	Bid Price
Hawthorn Power Systems	Cummins Diesel Gen-Set	\$27,536.59
Bay City Electric	Cummins Diesel Gen-Set	\$28,616.25
Cummins Cal Pacific LLC.	Cummins Diesel Gen-Set	\$32,599.76

FISCAL IMPACT:



The purchase of these gen-sets will cost \$54,036.63 which will be charged against the "APCD Engine Replacements and Retrofits"-CIP 2366. These gen-sets are budgeted for FY-2012 purchase.

The total FY12 project budget for the CIP p2366 APCD Engine Replacements and Retrofits is \$295,000. Existing expenditures

and current encumbrances for the CIP, including the gen-set purchased under this request if approved, are \$275,418.66.

Based on the Utility Service Manager's evaluation, the CIP 2366 budget is sufficient to complete the budgeted purchase.

The Finance Department has determined that 100% of the funds are available from the replacement fund.

Expenditure Summary:

FY12 APCD Engine Replacement CIP 2366 Budget:	\$295,000
FY12 Expenditures and Encumbrances to Date: APCD compliance replacements for existing fleet and equipment.	\$221,382.03
Proposed Emergency Stand By Gen-Set Purchase:	\$54,036.63
Total Expenditures and Encumbrances:	\$275,418.66
Projected Balance of APCD Engine Replacement FY12 CIP 2366 Budget:	\$19,581.34

STRATEGIC GOAL:

Implementation of the APCD engine compliance program per schedule.

LEGAL IMPACT: _____

None.



General Manager

Attachment "A", Committee Action



ATTACHMENT A

SUBJECT/PROJECT:	Approval to Purchase Emergency Stand By Gen-Set
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COMMITTEE ACTION:

This item was presented to the Finance, Administration and Communications Committee at a meeting held on January 18, 2012. The following comments were made:

- Staff is requesting approval of the purchase of two (2) emergency standby gen-sets for the 1090-1 Pump Station and the Operations Warehouse.
- CIP P2366, APCD Engine Replacements and Retrofits, provides funding for the repair, retrofit or replacement of District assets in order to comply with APCD air standard requirements.
- One existing portable gen-set is scheduled for replacement with a fixed unit due to its age (13 years), APCD restrictions on portable back-up generators and Diesel engine exhaust displacement. This gen-set will be evaluated for alternate uses and/or declared surplus.
- The APCD restrictions on portable generators include limiting run time which restricts scheduling maintenance time, does not allow storage of portable generators on-site and does not allow portables to be left hooked-up to facilities.
- The second gen-set will provide the Operations Warehouse with permanent back-up power to improve emergency response. Currently, there is no emergency power at the Operations Warehouse.
- The replacement of the existing portable gen-set will reduce the District's fuel, maintenance and repair costs. The new gen-sets will also reduce the District's diesel emissions output as they are Tier 3 which complies with APCD Diesel emissions standards.
- Staff solicited bids for the new gen-sets in accordance with District policy. Three bids were received for each gen-set and staff recommends the purchase of both gen-sets at a cost of \$54,036.63.

- It was noted that the budget for CIP 2366 is sufficient to complete budgeted purchases and 100% of the funds are available from the replacement fund.
- Staff indicated that the District has 29 gen-sets. Staff is working on one additional gen-set replacing a portable gen-set at the 944-1 pump station. The purchase of that gen-set will complete the District's needs for all facilities.
- Staff noted that page two (2) of staffs' report indicates in the title above the first chart, "944-1 81 Kw Gen-Set." It should state, "Operations Warehouse - 81 Kw Gen-Set."
- It was discussed, with the purchase of these gen-sets, that a majority of the District's facilities will have permanent back-up generators. Having the permanent backup was significant during the regional power outage because they allowed District operations to run normally with no impact to water services. Other water agencies are only prepared for localized power outages. If power is out in a portion of their service area, the agency would transport a back-up generator to their affected facilities to keep operations going until power is restored. However, if there is a power outage throughout their service area, they must move their back-up generators around to pump stations in order to pump reservoirs full. This can be a real struggle and become critical depending on the distances between facilities and how long the power outage continues.

Following the discussion, the committee supported staffs' recommendation and presentation to the full board on the consent calendar.

Quality Assurance Approval Sheet

Subject: Approval to purchase two (2) Emergency Gen-Sets

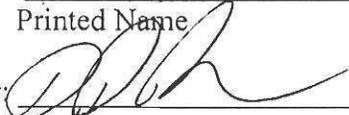
Project No.: P2366

Document Description: Staff report for the February 1st, 2012 Board Meeting.

Author: 
Signature

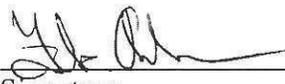
Date: 12-27-11

FRANK ANDERSON
Printed Name

QA Reviewer: 
Signature

Date: 1-10-12

DOUG RADOELS
Printed Name

Manager: 
Signature

Date: 1-10-12

FRANK ANDERSON
Printed Name

The above signatures attest that the attached document has been reviewed and to the best of their ability, the signers verify that it meets the District quality standard by clearly and concisely conveying the intended information; being grammatically correct and free of formatting and typographical errors; accurately presenting calculated values and numerical references; and being internally consistent, legible and uniform in its presentation style.



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 1, 2012
SUBMITTED BY:	Mark Watton, General Manager	W.O./G.F. NO:	DIV. NO.
SUBJECT:	Adopt Resolution No. 4192 Supporting the San Diego County Water Authority's Lawsuit Against the Metropolitan Water District of Southern California		

GENERAL MANAGER'S RECOMMENDATION:

That the Board consider adopting Resolution No. 4192 supporting the San Diego County Water Authority's Lawsuit against the Metropolitan Water District of Southern California.

COMMITTEE ACTION: _____

Please see Attachment A.

PURPOSE:

To present for the the board's consideration Resolution No. 4192 supporting the San Diego County Water Authority's Lawsuit against the Metropolitan Water District of Southern California.

ANALYSIS:

The San Diego County Water Authority (CWA) purchases nearly 50 percent of the region's water supply from the Metropolitan Water District of Southern California (MWD) and pays MWD a transportation charge to transport another 25 percent of the region's water supply that the CWA obtained through a water transfer agreement with the Imperial Irrigation District (IID) and by lining the All American and Coachella canals.

Since 2006, MWD has approved water rate increases totaling 75 percent. CWA audited MWD's water rate structure and determined that MWD misallocates the vast majority of its own water supply costs to the water transportation rates charged to the CWA to transport the IID and canal lining supplies, resulting in an overcharge of \$31 million to CWA ratepayers in 2011 and illegal subsidies to each of the 25 other member agencies of MWD. These over charges are estimated to reach as much as \$230 million annually by the 2021, and amount as much as \$2.1 billion over 45 years.

On June 11, 2011 CWA filed a lawsuit against MWD, challenging MWD's 2011 and 2012 water rates, which is currently pending in the San Francisco Superior Court. On October 27, 2011, CWA successfully amended its lawsuit to assert additional claims against MWD alleging that MWD took additional unfair and punitive actions that negatively impacts the CWA and San Diego County ratepayers. CWA and its member agencies require MWD board policies which make water available at an affordable cost, that fairly and lawfully apportions costs among its rate categories and among the MWD member agencies. As such, staff is recommending that the Otay Water District Board of Directors adopt Resolution No. 4192 supporting CWA's lawsuit against MWD.

FISCAL IMPACT:



None at this time.

STRATEGIC GOAL:

The adoption of Resolution No. 4192 support the District's strategic goal of providing water services at reasonable rates.

LEGAL IMPACT:

None.



General Manager

Attachments:

- Attachment A: Committee Action
- Resolution No. 4192



ATTACHMENT A

SUBJECT/PROJECT:	Adopt Resolution No. 4192 Supporting the San Diego County Water Authority's Lawsuit Against the Metropolitan Water District of Southern California
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COMMITTEE ACTION:

This item was presented to the Finance, Administration and Communications Committee at a meeting held on January 18, 2012. The following comments were made:

- Staff indicated that over the last several months updates have been provided in the General Manager's report regarding CWA's lawsuit against MWD challenging their rates.
- It was indicated that hearings have been held in the lawsuit and, while it is far from being resolved, it is felt that CWA's position is very strong.
- CWA is asking the boards of its member agencies to adopt resolutions supporting the lawsuit. By their adoption of resolutions showing formal support of the lawsuit, it will provide a strong position in court, in that, there is no question that all agencies support the lawsuit.
- Staff is recommending that the board adopt Resolution No. 4192 in support of CWA's lawsuit against MWD.
- It was noted that it was felt that all member agencies will be supporting the lawsuit.

Following the discussion, the committee supported staffs' recommendation and presentation to the full board on the consent calendar.

RESOLUTION NO. 4192

A RESOLUTION OF
THE BOARD OF DIRECTORS OF THE
OTAY WATER DISTRICT
SUPPORTING THE SAN DIEGO COUNTY WATER
AUTHORITY'S LAWSUIT AGAINST THE METROPOLITAN
WATER DISTRICT OF SOUTHERN CALIFORNIA

WHEREAS, San Diego County's \$186 billion economy and 3.1 million people depend upon the San Diego County Water Authority for approximately 75 percent of all water used in the region; and

WHEREAS, the Water Authority purchases nearly 50 percent of the region's water supply from the Metropolitan Water District of Southern California (MWD) and pays MWD a transportation charge to transport another 25 percent of the region's water supply the Water Authority obtained through water conservation achieved through a historic water transfer agreement with the Imperial Irrigation District and by lining the All American & Coachella canals; and

WHEREAS, MWD has approved water rate increases totaling 75% since 2006; and

WHEREAS, MWD's water rate structure misallocates the vast majority of its own water supply costs to the water transportation rates charged to the Water Authority to transport the IID and canal lining supplies, resulting in an overcharge of \$31 million to San Diego County Ratepayers in 2011 and illegal subsidies to each of the 25 other member agencies of MWD; and

WHEREAS, these overcharges are estimated to reach as much as \$230 million annually by the year 2021, and amount to as much as \$2.1 billion over 45 years; and

WHEREAS, on June 11, 2010, the San Diego County Water Authority filed a lawsuit against MWD, challenging MWD's 2011 and 2012 water rates, which is currently pending in the San Francisco Superior Court as Case No. CPF-10-510830; and

WHEREAS, on October 27, 2011, the Water Authority successfully amended its lawsuit to assert additional claims against MWD alleging that MWD took additional unfair and punitive actions that negatively impact the Water Authority and San Diego County ratepayers; and

WHEREAS, the Otay Water District and Water Authority require MWD board policies that make water available at an affordable cost, fairly and lawfully apportioned among its rate categories and among the member agencies of MWD;

NOW, THEREFORE, BE IT RESOLVED, that the Otay Water District supports the San Diego County Water Authority's lawsuit and the Water Authority's ongoing efforts to secure a reliable water supply and transportation rates from MWD at affordable, lawful and equitable prices.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Otay Water District at a regular meeting held this 1st day of February 2012 by the following vote:

AYES:

NOES:

ABSENT:

President

ATTEST:

Secretary

###



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 1, 2012
SUBMITTED BY:	James Cudlip, Finance Manager	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Joseph R. Beachem, Chief Financial Officer		
APPROVED BY: (Asst. GM):	German Alvarez, Assistant General Manager, Finance and Administration		
SUBJECT:	Approve the Selection of Union Bank for Banking Services		

GENERAL MANAGER'S RECOMMENDATION:

That the Board authorize the General Manager to continue contracting with Union Bank for banking services. This contract allows the District to continue using Union Bank for banking services until either party chooses to terminate the business relationship.

COMMITTEE ACTION: _____

See Attachment A.

BACKGROUND:

In January 2006, the Board approved Union Bank of California (now Union Bank) to become the District's primary provider of banking services. Subsequently, in March 2008 and again in February 2010, staff completed a review of banking services and fees and, in each case, recommended continuing with Union Bank. Based on the Board's direction after the last review, staff issued a Request for Proposal (RFP) for Banking Services in November 2011 to fully survey the current banking services financial market and establish an updated contract for the District's ongoing business concerns. Staff will continue to review the banking services contract on a bi-annual basis, to validate that the District is receiving the best available financial services at a competitive price.

ANALYSIS:

Business Priority

Banking services collectively comprise one of the most critical factors in maintaining the District's financial stability, both from a customer standpoint of receiving payments for water and sewer services provided, and from a business perspective dealing

with vendors and commercial markets for products received and financing as required. Because of this business sensitivity, the review of proposals received included both a qualitative evaluation of each institution and the services requested, and a quantitative evaluation of the overall projected costs.

Selection Process

The District sent an RFP to seven of the largest federal banks doing business in the San Diego area, and received responses from the following six institutions:

- Bank of America
- Bank of the West
- JPMorgan Chase Bank
- Union Bank
- U.S. Bank
- Wells Fargo Bank

A three person panel jointly reviewed and rated the proposals. The proposals included the following tabs:

- Letter of Transmittal
- Tab A - Table of Contents
- Tab B - Summary Sheet
- Tab C - Conceptual Plan
- Tab D - Account Reconciliation
- Tab E - Account Analysis Report
- Tab F - On-Line Reporting
- Tab G - Wire Transfer Deposits
- Tab H - Wire Transfer Payments
- Tab I - Availability of Funds
- Tab J - Payroll Services
- Tab K - Interest on Sweep Account Balances
- Tab L - Tax Payments
- Tab M - Check Fraud
- Tab N - Daylight Overdraft Protection
- Tab O - Deposit Services
- Tab P - Other Services
- Tab Q - References
- Tab R - Certification of Proposals
- Tab S - Proposer's Insurance
- Tab T - Services Not Available

Each tab was reviewed and rated. Some of the tab ratings were given a greater weight than others based on the relevance to District's business processes and financial needs. Due to the business sensitivity of these services, as discussed earlier,

this part of the score was given a weight of 2/3 (66.67%) of the overall score.

All of the banks were directed to provide 5-years of fixed pricing, based on the mix and average volume of services currently utilized by the District. Proposed pricing was reviewed and total costs for all services were then ranked from lowest to highest and given a weight of 1/3 (33.33%) of the overall score.

A summary of the evaluations and overall ranking of the proposals is provided in Attachment B.

Conclusion

Based on the overall evaluation and scoring, staff recommends continuing with Union Bank. All of the banks responding are capable of providing the financial services requested. The individual rankings of the institutions were extremely competitive both qualitatively and quantitatively. The following factors placed Union Bank over the other banks:

- 1) Union Bank received the highest overall ranking.
- 2) Union Bank has had an excellent track record of service with the District.
- 3) There are no additional costs or increased staff hours due to transitioning to a new financial institution.
- 4) As a result of this competitive process, the District will save approximately \$17,000 per year in service fees.
- 5) The District also anticipates additional interest earnings of \$4,800 per year due to the more aggressive rates being offered by the bank.

Ongoing Services

In accordance with prior directives of the Board, the District will continue to review and validate, on a bi-annual basis, that Union Bank's financial services fully meet the demands of the District and continue to be competitively priced.

FISCAL IMPACT:



Current bank fees are approximately \$107,000 per year, and are fully budgeted for fiscal year 2012. Renewing the contract with Union Bank is expected to save the District approximately

\$17,000 in banking fees and add \$4,800 in interest revenue annually, while maintaining the excellent quality of financial services on an on-going basis.

STRATEGIC OUTLOOK:

The District ensures its continued financial health through long-term financial planning, formalized financial policies, enhanced budget controls, fair pricing, debt planning, and improved financial reporting.

LEGAL IMPACT: _____

None.



General Manager

Attachments:

- A) Committee Action Form
- B) Bank Proposal Evaluation



ATTACHMENT A

SUBJECT/PROJECT:	Approve the Selection of Union Bank for Banking Services
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COMMITTEE ACTION:

This item was presented to the Finance, Administration and Communications Committee at a meeting held on January 18, 2012. The following comments were made:

- Staff indicated that beginning in 2006 the District contracted its banking services to Union-Bank. Since that time, every two (2) years, the District has completed an industry survey reviewing banking services to verify that it is receiving reasonable pricing and that there are no changes necessary in banking services.
- Following the banking services review in 2010, staff indicated that it would be issuing a full Request for Proposal (RFP) to compare banking fees and services.
- Staff indicated that there are three (3) main priorities when selecting a bank:
 - Lockbox services to receive bill payments from customers. The majority of the District's customer payments are received through lockbox services. Costs for lockbox services constitute approximately 61% of total banking fees paid by the District.
 - It is important that payments are received without interruption and that the bank providing the lockbox services can respond quickly to payment errors/adjustments.
 - Secured Services
 - Pricing
- Staff referenced *Attachment B* to staffs' report noting that services was weighted 2/3 more important than pricing which was weighted at 1/3.

- Staff issued an RFP and received seven (7) requests. Six (6) of the seven (7) banks responded to the RFP with full packages. All six (6) banks are large, well established federal banking institutions and, they not only have a good presence in San Diego, but many have a good presence in multiple states or even nationwide. Banking services is so widespread that all institutions must be able to communicate with one-another (local banks, credit unions, etc.) and, from a services standpoint, all presents products that are interchangeable with other banks.
- It was noted that the District's experience with Union-Bank's lockbox services, thus far, in comparison to previous banking services providers over the past 10 to 15 years, has been stellar. They have done a great job in lockbox services and has even improved their services over the time the District has utilized their services.
- It was discussed with regard to rating the RFP's, that there is approximately a \$10,000 difference over five (5) years or \$2,000 per year in the pricing between Union Bank and the lowest priced Bank. In addition to the combined qualitative and quantitative ratings, where Union Bank was the highest overall rated bank, staff felt that the process of changing banking services and its impact to the District and customers far outweighed the yearly savings of \$2,000. The process to change banks took six (6) months to accomplish the last time the District instituted a change and it is felt that the savings of \$2,000 is not enough to justify changing banks.
- Staff is recommending that the District continue utilizing Union-Bank for its banking services.
- Staff will continue to review banking services every two (2) years to assure that it is receiving the best services at the best pricing. The bonus of the bi-yearly review is Union-Bank and their competitors are challenged to keep their services and pricing competitive.
- Staff also shared that the District has converted approximately 40% of its customer base to automatic bill on-line payments which drops the cost of lockbox expenses and increases efficiency.

- In response to a committee inquiry regarding the outcome of the last RFP process, staff indicated that two (2) years ago, Union-Bank had come first in the rankings and the District had changed its banking services to Union-Bank. During this year's RFP process, the District heard from other agencies that Bank of the West, which is a very good bank, was being particularly aggressive with their pricing in hopes that it would be the deciding factor in the selection of a banking institution.
- Staff noted that Union-Bank guarantees their pricing for five (5) years.

Following the discussion, the committee supported staffs' recommendation and presentation to the full board on the consent calendar.

Attachment B

Bank Proposal Evaluation

	Overall
Union Bank	93%
US Bank	88%
Bank of the West	86%
J.P. Morgan	77%
Wells Fargo	71%
Bank of America	70%

Weight 2/3	Qualitative	Percentage	Place
Union Bank	415	90%	1
US Bank	403	88%	2
Wells Fargo	389	84%	3
J.P. Morgan	370	80%	4
Bank of the West	366	79%	5
Bank of America	359	78%	6

Weight 1/3	Projected 5- Year Cost	Percentage	Place
Bank of the West	\$ 387,375	100%	1
Union Bank	\$ 397,305	97%	2
US Bank	\$ 428,050	89%	3
J.P. Morgan	\$ 505,368	70%	4
Bank of America	\$ 569,807	53%	5
Wells Fargo	\$ 600,224	45%	6

Panel:
 Joe Beachem
 Jim Cudlip
 Steve Dobra



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 1, 2012
SUBMITTED BY:	Lisa Coburn-Boyd <i>LCB</i> Environmental Compliance Specialist	PROJECT/ SUBPROJECT:	R2087-001102 DIV. NO. 1
	Ron Ripperger <i>RR</i> Engineering Manager		
APPROVED BY: (Chief)	Rod Posada <i>RPosada</i> Chief, Engineering		
APPROVED BY: (Asst. GM)	Manny Magaña <i>M Magaña</i> Assistant General Manager of Engineering and Operations		
SUBJECT:	Authorization to Acquire an Easement from the City of Chula Vista for the Wueste Road portion of the Recycled Water Supply Link Project		

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board authorizes the General Manager to acquire an easement from the City of Chula Vista for the 24-inch Wueste Road pipeline portion of the Recycled Water Supply Link Project in an amount not-to-exceed \$66,800 (see Exhibit A for location of the easement).

COMMITTEE ACTION:

Please see Attachment A.

PURPOSE:

To obtain Board authorization for the General Manager to acquire an easement from the City of Chula Vista for the 24-inch Wueste Road pipeline portion of the Recycled Water Supply Link Project in an amount not-to-exceed \$66,800.

ANALYSIS:

The Wueste Road pipeline portion of the Recycled Water Supply Link Project consists of the construction of a 24-inch steel recycled water main in Wueste Road in Chula Vista. The alignment of the

pipeline will follow Wueste Road from the intersection of Wueste Road and Olympic Parkway, where it connects to an existing 16-inch recycled pipeline, south to the entrances of the City of San Diego's Otay Water Treatment Plant (OWTP) and the County of San Diego's Otay Lakes County Park. Here, the pipeline will turn west and then south to its terminus at an existing 30-inch recycled water pipeline at the southwestern edge of the OWTP. Currently, the design is complete for the entire Otay Mesa Supply Link Project, but the Project is on hold pending successful negotiations with the City of San Diego regarding recycled water.

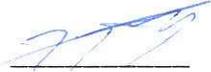
Construction of the Wueste Road segment would be completed primarily using cut and cover trenching, except for one location where tunneling is required to avoid impacts to existing underground utilities. Construction activities will be limited to paved portions of the roads within the existing utility rights-of-way, where feasible; and construction staging areas are anticipated to be sited in existing developed areas. However, some sections of construction in the southern portion of the Project area would extend beyond the paved areas of the road.

The easements include a pipeline easement of 0.610 acres and a temporary construction easement of 2.488 acres. Portions of the easements are within the City of Chula Vista's Multiple Species Conservation Program 100% Preserve lands and the District is in the process of obtaining a Habitat Loss Incidental Take (HLIT) permit from the City of Chula Vista for impacts to any vegetation within the 100% preserve. The conditions of the HLIT will require that the District restore any sensitive vegetation impacted by the construction and maintain and monitor the restoration for five years or until the success criteria for these areas are met. The sensitive vegetation areas that will be impacted by the construction include 1.63 acres of coastal sage scrub and 0.16 acres of maritime succulent scrub. The HLIT permit and its conditions are also included in the purchase agreement for the easements.

The District retained the appraisal services of Keagy Real Estate, an independent real estate appraiser, to estimate the "Fair Market Value" of the proposed acquisition, as that value is defined in Section 1263.320 of the California Code of Civil Procedure. On the basis of this independent fee appraisal, and initial discussions with the City of Chula Vista, the District has determined that the amount of \$66,800.00 constitutes just compensation. The fee appraisal (Attachment C) and grant of easement documents (Attachment D) were sent to Rick Ryals, Real Property Manager at the City of Chula Vista, for his review. He will be presenting the offer to the Chula Vista City Council in January 2012. Upon approval of the Chula Vista City Council and the District's Board of Directors, a purchase agreement

(Attachment E) will be signed by both parties and the easement documents will be executed.

FISCAL IMPACT:



Funding for this easement will come from CIP R2087 for the Wueste Road Pipeline. The total budget for R2087, as approved in the FY 2012 budget, is \$7,000,000. Total expenditures, plus outstanding commitments to date, including the purchase of these easements, are approximately \$972,538. See Attachment B for budget detail.

Based on a review of the financial budget, the Project Manager has determined that the budget for CIP R2087 will be sufficient to support this Project.

Finance has determined that 100% of the funding is available from the Expansion Fund.

STRATEGIC GOAL:

This Project supports the District's Mission statement, "To provide customers with the best quality water, wastewater, and recycled water service in a professional, effective, and efficient manner".

LEGAL IMPACT:

None.



General Manager

P:\WORKING\CIP R2087\Staff Reports\BD 02-01-12 CIP Wueste Road City of Chula Vista Easement Acquisition, (LCB-RR).doc
LCB/RR:jf

- Attachments: Attachment A - Committee Action
- Attachment B - Budget Detail
- Attachment C - Fee Appraisal
- Attachment D - Grant of Easement Documents
- Attachment E - Purchase Agreement
- Exhibit A - Location Map



ATTACHMENT A

SUBJECT/PROJECT: R2087-001102	Authorization to Acquire an Easement from the City of Chula Vista for the Wueste Road portion of the Recycled Water Supply Link Project
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on January 24, 2012 and the following comments were made:

- o Staff requested that the Board authorize the General Manager to acquire an easement from the City of Chula Vista for the 24-inch Wueste Road pipeline portion of the Recycled Water Supply Link Project in an amount not-to-exceed \$66,800.
- o Staff provided a history of the Recycled Water Supply Link Project and indicated that the Project was designed to bring recycled water from the District's central area to the Otay Mesa area.
- o Staff stated that the construction of the Wueste Rd. pipeline is primarily located in the City of Chula Vista and requires the purchase of a 0.6 acre pipeline easement and a 2.5 acre temporary construction easement from the City.
- o Staff indicated that portions of the easements are located in the City's preserve lands and impact sensitive vegetation, so the District is working with the City to obtain a habitat loss incidental take permit. It was noted that the conditions for the permit are included in the purchase agreement for the easements.
- o It was indicated that the District retained the appraisal services of Keagy Real Estate to estimate the Fair Market value of the proposed acquisition and it was determined to be \$66,800. Staff stated that the fee appraisal and grant of easement documents were sent to Rick Ryals, Real Property Manager for the City of Chula Vista and he will be presenting the offer to the City's Council in early February 2012. Upon approval of the City Council and the District's Board of Directors, a purchase agreement will be signed by both parties and the easement documents will be executed.
- o Staff provided a copy of the Location Map (Exhibit A) to the Committee. The Committee requested that the actual habitat area be included in the Location Map.

Following the discussion, the Committee supported staffs' recommendation and presentation to the full board as a consent item.



ATTACHMENT B

SUBJECT/PROJECT: R2087-001102	Authorization to Acquire an Easement from the City of Chula Vista for the Wueste Road portion of the Recycled Water Supply Link Project
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Otay Water District
R2087 - RecPL-20-inch,944 Zone,Wueste Rd-Olympic/Otay WTP

Date Updated: December 13, 2011

<i>Budget</i>	<i>Committed</i>	<i>Expenditures</i>	<i>Outstanding Commitment & Forecast</i>	<i>Projected Final Cost</i>	<i>Vendor/Comments</i>
7,000,000					
Planning					
Labor	86,161	86,161		86,161	
Consultant Contracts	81,595	81,595	-	81,595	JONES & STOKES ASSOCIATES INC
	47,846	47,846	-	47,846	LEE & RO INC
	11,100	11,100	-	11,100	HARRIS & ASSOCIATES INC
Service Contracts	234	234	-	234	UNION TRIBUNE PUBLISHING CO
	121	121	-	121	SAN DIEGO DAILY TRANSCRIPT
Total Planning	227,056	227,056	-	227,056	
Design					
Labor	482,649	482,649		482,649	
Mileage Reimbursement	-	-	-	-	PETTY CASH CUSTODIAN
Meals and Incidentals	56	56	-	56	US BANK CORPORATE PAYMENT
Business Meetings	205	205	-	205	US BANK CORPORATE PAYMENT
Regulatory Agency Fees	6,902	6,902	-	6,902	COUNTY OF SAN DIEGO
	6,667	6,667	-	6,667	CITY TREASURER
	6,320	6,320	-	6,320	CITY OF CHULA VISTA
	156	156	-	156	STATE WATER RESOURCES
Other Agency Fees	4	4	-	4	PETTY CASH CUSTODIAN
Consultant Contracts	41,821	41,821	-	41,821	SOUTHERN CALIFORNIA SOIL
	25,740	25,740	-	25,740	DARNELL & ASSOCIATES INC
	23,274	23,274	-	23,274	AEGIS ENGINEERING MGMT INC
	14,701	14,701	-	14,701	CPM PARTNERS INC
	9,500	9,500	-	9,500	ENGINEERING PARTNERS INC, THE
	7,870	7,870	-	7,870	MORENO AERIAL PHOTO
	5,451	5,451	-	5,451	FLOW SCIENCE INC
	4,988	4,988	-	4,988	WRA & ASSOCIATES INC
	2,450	2,450	-	2,450	MWH CONSTRUCTORS INC
Professional Legal Fees	770	770	-	770	GARCIA CALDERON & RUIZ LLP
Service Contracts	8,750	8,750	-	8,750	MICHAEL D KEAGY REAL ESTATE
	6,660	2,503	4,157	6,660	REPROHAUS CORP
	2,750	2,750	-	2,750	FIRST AMERICAN TITLE INS CO
	1,100	1,100	-	1,100	CABLE PIPE & LEAK DETECTION
	138	138	-	138	UNION TRIBUNE PUBLISHING CO
	12	12	-	12	US BANK CORPORATE PAYMENT
For Ops Only - Contracted Ser	5,118	5,118	-	5,118	KIRK PAVING INC
Cameras, Survey Equipment	96	96	-	96	LEWIS & LEWIS ENTERPRISES
Infrastructure Equipment & Me	600	600	-	600	CITY OF CHULA VISTA
Easements	66,800	66,800	-	66,800	CITY OF CHULA VISTA
Total Design	731,547	727,390	4,157	731,547	
Construction					
Labor	7,056	7,056		7,056	
Consultant Contracts	4,653	4,653	-	4,653	RBF CONSULTING
Consultant Contracts	1,983	1,983	-	1,983	CPM PARTNERS INC
Service Contracts	243	243	-	243	SAN DIEGO DAILY TRANSCRIPT
Total Construction	13,935	13,935	-	13,935	
Grand Total	972,538	968,381	4,157	972,538	



ATTACHMENT C

SUBJECT/PROJECT: R2087-00102	Authorization to Acquire an Easement from the City of Chula Vista for the Wueste Road portion of the Recycled Water Supply Link Project
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Copy of the appraiser's Summary of the Basis for the Amount Established as Just Compensation.

SUMMARY OF THE BASIS FOR THE AMOUNT
ESTABLISHED AS JUST COMPENSATION
(accompanying offer made pursuant to Government Code § 7267.2)

The following is a summary of the basis for the amount that the Otay Water District established as just compensation, which was derived from an appraisal as approved by the Otay Water District. The appraisal was made in accordance with accepted appraisal principles, consistent with California valuation law. A statement of the appraisal process, which was the basis for the valuation conclusions, follows.

Project: Wueste Road Recycled Water Pipeline

Parcel No.: 643-040-06; 644-080-11

Thomas Guide No.: Page 1332, A-2, 3, 4

Ownership Data:

Name: City of Chula Vista
c/o Richard A. Ryals, Real Property Manager

Address: 276 Fourth Avenue, Chula Vista, CA 91910

Phone: (619) 691-5118

Property Location: West of Lower Otay Reservoir and the City of San Diego
Otay Water Treatment Plant, City of Chula Vista

Legal Description: A portion of Lots 3 and 4 of Otay Rancho, according to Map Thereof No. 862, filed in the office of the San Diego County Recorder, February 7, 1900 and; the 45.86 acres within APN 643-040-06.

Land Area: 258.36 acres; 86 acres in the Otay Ranch University Site, 172.36 acres in the Otay Ranch/City of Chula Vista MSCP Preserve

Land Area to be Acquired: Permanent Pipeline Easement: 0.61 acres
Temporary Construction Easement: 2.488 acres

Improvements in Area Sought: None

Land Use Regulations: Zoning: P-C (Planned Community)
General Plan: PQ (Public/Quasi Public)
Other: University Site and Preserve; Otay Ranch GDP, City of Chula Vista MSCP Subarea Plan

Present Use: Vacant acreage

Interest Being Valued:	Permanent Recycled Water Pipeline – Fee Simple Temporary Construction Easement
Effective Date of Value:	April 15, 2010
Value of the Parts to be Acquired:	\$66,784
Net Severance Damages:	None
JUST COMPENSATION: Fair Market Value	\$66,800

(a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable. (Amended by Stats.1992, c. 7 (S.B.821), §2.)

¹ California Code of Civil Procedure, Title 7, Chapter 9 Article 4, Paragraph §1263.320.

Highest and Best Use

Highest and best use is generally defined as the reasonably probable use which is legally permissible, physically possible, and financially feasible and results in the maximally productive land use. In evaluating highest and best use, the appraiser first evaluates the property as if unimproved and available for development. If improved, the property is then evaluated with the improvements. The larger parcel is vacant and only the highest and best use, as if vacant, applies.

The highest and best use of the larger parcel is development of the 86-acre University Site with ancillary university uses (estate housing etc.) and marketing/selling the 172.36-acre Preserve area as environmentally sensitive mitigation acreage.

Valuation Methodology and Valuation Analysis

Three primary valuation techniques are available to real estate appraisers; the Cost Approach, the Sales Comparison Approach, and the Income Approach. The Sales Comparison Approach is the only applicable methodology in estimating the value of the larger parcel. The Sales Comparison Approach is primarily based on the principle of substitution. Simply stated, a buyer presumably will not pay more for a property than the cost of acquiring a similar property of equal utility. A conclusion of fair market value is reached by comparing the larger parcel with similar land parcels that have sold recently. The appraiser searched for recent sales of parcels with a highest

and best use of university development/estate residential/community facilities and environmentally sensitive acreage. The contributory value of the each land component was estimated and combined to estimate the value of the larger parcel. The Cost Approach was not applicable in this analysis.

A total of nine comparable land transactions are analyzed in the appraisal report (see attached market data table). The unit rate used in the appraisal is the price per gross acre. The four environmental sales ranged in price from \$10,042 to \$36,452 per gross acre. A value of \$25,000 per gross acre was concluded based on analyzing various elements of comparison.

The five development land sales ranged in price from \$193,078 to \$524,246 per gross acre. The land sale at the top of the range has multi-family development potential and was not given significant weight in the valuation analysis. The sale was included due to the proximity to the larger parcel. After adjustment the market data have a price range of about \$131,000 per gross acre to \$312,000 per gross acre after excluding the multi-family land sale. With emphasis on the "highest price" definition of fair market value, it is concluded that the contributory fair market value of the development land portion of the larger parcel is \$200,000 per gross acre based on analyzing various elements of comparison.

The larger parcel is a combination of two contiguous Assessor parcels totaling 258.36 acres. The land area of larger parcel is divided into 172.36 acres of Preserve land and 86 acres of development land. The Preserve lands have a contributory value of \$25,000 per gross acre and the development land portion has a contributory value of \$200,000 per gross acre. The overall value of the larger parcel is \$21,509,000 (172.36 acres x \$25,000/ac + 86 acres x \$200,000/acre).

Site Improvements

No site improvements are impacted by the public project.

Public Project Discussion

The purpose of the District's recycled water program is to reduce the demand for imported water, maximize the use of local water supplies and provide a continuous and dependable source of supplemental water for the area. This project is needed because dependable water supplies in Southern California are becoming more difficult to develop and maintain as imported water becomes less reliable.

The recycled water project includes three separate locations in the South Bay. The project traverses portions of the Cities of Chula Vista and San Diego as well as the unincorporated San Diego County. The three-pipeline proposed project would extend along Wueste Road within the County of San Diego and the City of Chula Vista, along Alta Road in the City of San Diego, and along Airway/La Media Road in the City of San Diego. The larger parcel is located in the Wueste Road pipeline segment.

Value of the Parts to be Acquired

Permanent Recycled Water Pipeline Easement

The proposed 0.61-acre permanent recycled water pipeline easement is located adjacent to the easterly property boundary of the larger parcel. The easement traverses both development land (0.31 ac) acre and the Preserve area (0.30 ac). The value of the proposed easement area has the same value as the contributory value of the Preserve lands and development acreage as part of the larger parcel. Preserve lands have a contributory value of \$25,000 per gross acre. The development acreage has a contributory value of \$200,000 per gross acre. Since the easement rights allow the removal of vegetation and surface uses, an estimated 90% of available property rights are being acquired in the portion of the easement traversing the Preserve lands. The easement acquisition through the development acreage is concluded to acquire 50% of available property rights since the City of Chula Vista will retain most of the surface and air rights and the area can still be used for landscaping, density calculations, etc.

The value of the permanent recycled water pipeline easement to be acquired as a part of the larger parcel is calculated below.

<u>Value of the Permanent Recycled Water Pipeline Easement</u>		
0.30 acres x \$ 25,000/acre x 90% =	\$	6,750
0.31 acres x \$200,000/acre x 50% =		<u>31,000</u>
0.61 acres	TOTAL	\$37,750

Temporary Construction Easement

The Otay Water District needs a 2.488-acre TCE for the construction of the pipeline project. The duration of the TCE is 12 months according to the easement document. The fair market value of the land subject to the TCE is \$322,600 (1 ac x \$25,000/ac + 1.488 ac @ \$200,000/ac). At a rental value of 9% per year, the annual rental value of the land is \$29,034 (\$322,600 x 9%). Reasonable compensation for the TCE is concluded to be \$29,034.

Site Improvements

There are no site improvements in the area of the permanent recycled water pipeline easement or the temporary construction easement.

Total Value of the Parts to be Acquired

The total value of the part to be acquired is calculated below.

<i>Permanent Recycled Pipeline Easement:</i>	\$37,750
<i>Temporary Construction Easement:</i>	29,034
<i>Improvements</i>	<u>0</u>
TOTAL	\$66,784

Value of the Remainder as Part of the Larger Parcel

The value of the remainder as part of the larger parcel is calculated by subtracting the value of the part to be acquired from the value of the larger parcel, as follows:

Value of the Larger Parcel:	\$21,509,000
Value of the Part to be Acquired	<u>(66,784)</u>
Value of the Remainder as Part of the Larger Parcel	\$21,442,216

Value of the Remainder Before Consideration of Benefits

The acquisition of a 0.61-acre permanent recycled water pipeline easement and a one year 2.488-acre temporary construction easement along the most easterly portion of the larger parcel does not impact the remainder's highest and best use. The larger parcel is a combination of 86 acres of development land as part of the Otay Ranch University Site and 172.36 acres of Preserve lands. There are no current plans for the development acres. The planning process has not yet determined permitted uses on the site. The construction of the public project should not interfere with any future uses of the larger parcel. The highest and best of the remainder is identical in the before and after condition. Therefore, the value of the remainder before consideration of benefits is concluded at \$21,422,216, identical to the value of the remainder as part of the larger parcel.

Severance Damages

Severance damages are factors which cause a decline in the fair market value of the remainder after acquisition and construction of a public project. These damages can be a result of the physical and legal acquisition of property rights (i.e., irregular remaining lot shape or size, loss of access rights, etc.) or can be the result of construction of the project (i.e. increased road noise, incompatible land use, etc.).

The value of the remainder as part of the larger parcel and the value of the remainder before consideration of benefits is identical. Therefore, no severance damages are supported by the construction or operation of the public project.

Value of the Remainder After Consideration of Benefits

In the body of the report it was stated that the public project did not produce any benefits which would increase the value of the remainder. The proposed project will not increase the value of the remainder since the remainder does not have an identified need for recycled water. Therefore, the value of the remainder after consideration of benefits is concluded to be \$21,422,216, identical to the value of the remainder before the consideration of benefits.

Benefits

Benefits to the remainder are those reasonably certain benefits which cause the fair market value of the remainder to increase as a result of construction and operation of the public project. Benefits to the remainder can wholly or partially offset severance damages but cannot offset compensation for the parts acquired in State of California condemnation acquisitions. The value

of benefits is calculated as the difference between the value of the remainder before consideration of benefits and the value of the remainder after the consideration of benefits.

The value of the remainder before consideration of benefits and the value of the remainder value after consideration of benefits are both concluded at \$21,422,216. Therefore, no benefits are created by the construction or operation of the public project.

Summary of Values

The following table summarizes the just compensation for the parts to be acquired in the City of Chula Vista ownership.

SUMMARY OF VALUES			
Larger Parcel Value	\$21,509,000		
Value of the Part to be Acquired			
<i>Permanent Recycled Water Pipeline Easement</i>			\$37,750
<i>Temporary Construction Easement</i>			<u>29,034</u>
			\$66,784
Value of Remainder as Part of the Larger Parcel	\$21,422,216		
Value of Remainder Before Consideration of Benefits	\$21,422,216		
Severance Damages		\$0	
Value of Remainder After Consideration of Benefits	\$21,422,216		
Benefits		<u>0</u>	
Net Severance Damages			<u>\$ 0</u>
Total Compensation			\$66,784
Rounded (up to nearest \$100)			\$66,800

Total compensation for the parts to be acquired within the City of Chula Vista ownership is concluded to be \$66,800 as of April 15, 2010.

EXHIBIT A. ENVIRONMENTALLY SENSITIVE LAND SALE SUMMARY						
Data No./Location Assessor Parcel No.	Buyer/Seller	Sale Price	Sale Terms	Rec. Date Doc. No.	Lot Size/Shape Zoning	Price Per AC
(1) West of Santee Lakes, northeast of the Sycamore Landfill, East Elliott area, City of San Diego (366-040-15)	Department of Veterans Affairs Robert A. And Patricia Kleinschmidt, et. Al	\$600,000	Cash	12/10/07 0761866	16.46 AC Irregular RS-1-8	\$36,452
(2) West side of Rangeland Road and north of Highland Road, Ramona Community, unincorporated San Diego County (277-050-32)	Kearny PCCP Otay 311, LLC David J. Kahn, Trustee	\$1,350,000	Cash	12/04/08 0620654	63.07 AC Irregular S88	\$21,405
(3) North and south of the Otay River, east of State Route 125, Otay Ranch Preserve, City of Chula Vista (646-010-06)	The County of San Diego Otay Land Company, LLC	\$1,500,000	Cash	02/28/06 0139662	113.53 AC Irregular P-C	\$13,212
(4) South of Suncrest Boulevard, Crest Community, unincorporated San Diego County (Por 512-120-03; now 512-120-09)	Mildred O. Moorman, Trustee Endangered Habitat's League	\$1,275,000	Cash	02/18/09 0080051	126.97 AC Irregular A70	\$10,042

EXHIBIT A. DEVELOPMENT LAND SALE SUMMARY

Data No./Location Assessor Parcel No.	Buyer/Seller	Sale Price	Sale Terms	Rec. Date Doc. No.	Lot Size/Shape Zoning	Price Per AC
(1) South of the intersection of Wueste Road and Olympic Parkway, City of Chula Vista (643-040-17, 18, 19)	Not Disclosed	\$16,000,000	Not Disclosed	Escrow	30.52 AC Irregular RMS	\$524,246
(2) East side of Interstate 15 and south of Pala Mesa Heights Road, Fallbrook Community, unincorporated San Diego County (108-120-55; 108-121-16)	Palomar Community College 15-76 Partnership and Pala Village Investment Inc.	\$38,241,902	Cash	06/14/07 0403363	85.31 AC Irregular S90	\$448,270
(3) Northeast quadrant of Discovery Falls and Winding Walk Street, City of Chula Vista (643-610-41)	Concorida Lutheran Church and School Brookfield Shea Otay LLC	\$2,264,500	Private financing terms are not available; seller received all-cash	04/29/08 0227242	5.52 AC Irregular	\$410,236
(4) South side of Pomerado Road, east of Scripps Ranch Boulevard, Scripps Ranch Community, City of San Diego (363-080-41)	Alliant International University HRS Education Services, Inc.	\$17,000,000	Cash	04/16/07 0254662	64.25 AC Irregular RS-1-8	\$264,591
(5) Northeast quadrant of Vista Grande Road and Canta Lomas, Granite Hills Community, unincorporated San Diego County (515-070-03, 06, 07)	Suncor Ambiance LLC Reynolds Ambiance LLC	\$5,300,000	Cash	08/21/07 0557420	27.45 AC Irregular RR-1	\$193,078



ATTACHMENT D

SUBJECT/PROJECT: R2087-001102	Authorization to Acquire an Easement from the City of Chula Vista for the Wueste Road portion of the Recycled Water Supply Link Project
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Copy of the Grant of Easement Documents.

RECORDING REQUESTED BY
AND AFTER RECORDATION
MAIL TO:

For Recorder's Use

OTAY WATER DISTRICT
2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CA 91977-7299

Documentary Transfer Tax: None
(Exempt under Rev & Tax Code Section 11922)

**GRANT OF PERMANENT EASEMENT AND RIGHT-OF-WAY TO
OTAY WATER DISTRICT**

APN: 644-080-11

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned **THE CITY OF CHULA VISTA, A MUNICIPAL CORPORATION**, as **Grantor(s)** hereby **GRANT(S) to OTAY WATER DISTRICT**, a municipal water district formed under the Municipal Water District Law of 1911, as amended, situated in the County of San Diego, State of California, as **Grantee**, a permanent easement and right to occupy the surface and subsurface of the easement for the purpose of constructing, installing, operating, repairing and replacing a water pipeline or pipelines, together with related meters, valves, vaults, vents, and other appurtenant fixtures, including all underground and surface structures appurtenant to said water lines, including but not limited to power lines for transmission and communication purposes related to **Grantee's** operations, pumps, regulators, valves, hereinafter referred to as "said facilities" together with the right of unobstructed ingress and egress therefrom and the right to keep the easement area at all times clear of buildings, structures and other objects which occupy or physically intrude on the land (either permanently or temporarily) and from toxic or hazardous materials, trees and other objects or growths detrimental to the uses herein granted. Said easement is described and/or depicted as follows:

See Exhibits 'A' and 'B' attached hereto and made a part hereof

Grantor reserves the right to use said land at Grantor's own risk for any and all purposes not conflicting, interfering or inconsistent with Grantee's use of said facilities. Grantor waives any right under Civil Code section 845, and any right to compel Grantee to grade, surface or otherwise improve or maintain said easement area as a roadway.

Grantor shall not increase or decrease or permit to be increased or decrease the ground elevations of said easement existing at the time this document is executed, nor construct or permit to be constructed any permanent building,

OWD EASEMENT NO. _____
OWD CIP R2087-001102

structures, improvements or other encroachment upon said easement which will cause damage to or threaten the safety of any of said facilities of Grantee placed within the easement.

Grantee may remove from the easement, without liability, any building, structure, improvement or other encroachments thereon conflicting, interfering or inconsistent with its use for the purposes hereby granted. Grantee shall have the right to install its own gates and locks in all fences which now cross or may hereafter cross said easement.

Grantor, or its successors in interest, shall be solely responsible for maintaining the surface area of the easement free and clear of debris, plants, or any other items not placed within the easement by Grantee.

Grantor may use said land as a driveway and to the extent of such use may surface or pave the area, subject only to the restrictions as to changes in existing ground elevations set forth above.

Grantor may, at Grantor's expense, and subject to Grantee's prior written consent, relocate the above mentioned facilities in the event such conflict with future development of said property, provided that Grantor does not cause discontinuance of service to any area, and provided, further, that Grantee receives, without expenses to Grantee, an easement comparable to this easement for said relocated facilities. If Grantor needs to relocate or remove the facilities, it shall comply with all applicable provisions of law. Grantee shall never be required to relocate or alter in any way the facilities installed pursuant to this grant of easement, or to bear any cost in connection therewith as a result of changes in the location of any said facilities.

The Grantor, for the Grantor and Grantor's successors and assigns, hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement by reason of the location, construction, installation of the reclaimed water line, or other project improvements on the Easement.

Grantee shall have the right to transfer and assign all or a portion of this easement to its successor in interest, or to any other political subdivision or public utility for use of the above stated purpose.

Date: _____, 2010

By: _____

By: _____

[Each signature of Grantor must be acknowledged in the form attached hereto]

GRANTOR'S SIGNATURE ACKNOWLEDGEMENT

State of California)
) ss
County of _____)

On _____ before me, _____
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared

NAME(S) OF SIGNER(S)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) , or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

DISTRICT CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant of Easement of Right of Way to Otay Water District dated _____, 2010 from THE CITY OF CHULA VISTA to OTAY WATER DISTRICT, a municipal water district, is hereby accepted by order of the Board of Directors pursuant to the authority conferred by Resolution No. 1829, adopted on February 23, 1981, and the grantee consents to recordation thereof by its duly authorized officer.

Date: _____

By: _____
Susan Cruz, District Secretary

EXHIBIT "A"
LEGAL DESCRIPTION
PIPELINE AND CONSTRUCTION EASEMENT

PAGE 1 OF 2

ALL THAT PORTION OF LOT 4, IN OTAY RANCHO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 862, FILED IN THE OFFICE OF THE COUNTY RECORDER, FEBRUARY 7, 1900, BEING DESCRIBED AS FOLLOWS:

PARCEL A (PIPELINE EASEMENT)

BEGINNING AT THE SOUTHWEST CORNER OF A 20.00' FOOT WIDE STRIP OF LAND GRANTED TO THE OTAY WATER DISTRICT, REFERRED TO AS PARCEL 1 (PIPELINE EASEMENT) IN DOCUMENT NO. 1997-0324833 OF OFFICIAL RECORDS; THENCE ALONG THE NORTHERLY LINE OF A 100.00' FOOT RIGHT OF WAY GRANTED TO THE CITY OF SAN DIEGO IN A DEED RECORDED JANUARY 31, 1913 IN BOOK 598 PAGES 54 THROUGH 83 OF OFFICIAL RECORDS, NORTH 74°11'05" WEST 36.40' FEET; THENCE LEAVING SAID NORTHERLY LINE, NORTH 18°40'31" WEST 42.88' FEET; THENCE NORTH 26°15'37" EAST 20.37' FEET TO A LINE PARALLEL WITH THE WESTERLY LINE OF SAID 20.00' FOOT STRIP; THENCE ALONG SAID PARALLEL LINE, NORTH 18°40'31" WEST 225.14' FEET; THENCE NORTH 73°22'24" EAST 241.37' FEET; THENCE NORTH 18°52'53" WEST 845.63' FEET; THENCE NORTH 73°22'24" EAST 274.21' FEET; THENCE NORTH 18°53'14" WEST 483.31' FEET; THENCE LEAVING SAID PARALLEL LINE, NORTH 66°13'32" EAST 15.93' FEET TO THE WESTERLY LINE OF SAID 20.00' STRIP; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID 20.00' FOOT STRIP TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED EASEMENT CONTAINS 0.610 ACRES, MORE OR LESS.

PARCEL B (TEMPORARY CONSTRUCTION EASEMENT)

A STRIP OF LAND 50.00' FEET WIDE, THE WESTERLY LINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

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EXHIBIT "A"
LEGAL DESCRIPTION
PIPELINE AND CONSTRUCTION EASEMENT

PAGE 2 OF 2

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EXCEPTING THEREFROM THAT PORTION LYING WITH PARCEL A DESCRIBED HEREINABOVE.

THE ABOVE DESCRIBED EASEMENT CONTAINS 2.488 ACRES, MORE OR LESS.

AS SHOWN ON EXHIBIT "B", ATTACHED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF.

DATED THIS 22ND DAY OF FEBRUARY, 2010





JIMMY J. ELMORE L.S. 8483
EXP. 12-31-2010

EXHIBIT "B"
PLAT

PIPELINE AND TEMPORARY CONSTRUCTION EASEMENT

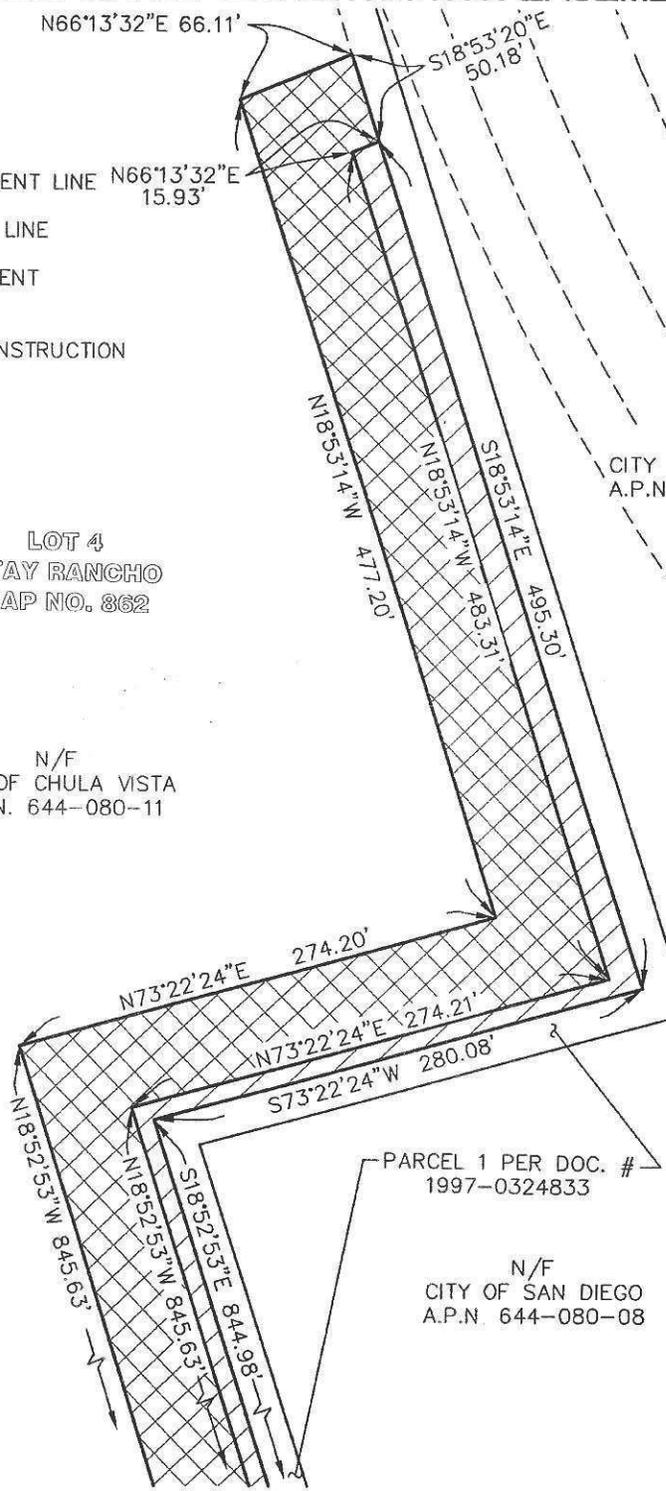
- LEGEND
- INDICATES PROPERTY LINE
 - - - INDICATES EXISTING EASEMENT LINE
 - INDICATES NEW EASEMENT LINE
 -  INDICATES PIPELINE EASEMENT PARCEL A
 -  INDICATES TEMPORARY CONSTRUCTION EASEMENT PARCEL B



LOT 4
OTAY RANCHO
MAP NO. 862

N/F
CITY OF CHULA VISTA
A.P.N. 644-080-11

N/F
CITY OF SAN DIEGO
A.P.N. 644-100-06



PARCEL 1 PER DOC. #
1997-0324833

N/F
CITY OF SAN DIEGO
A.P.N. 644-080-08



SEE PAGE 1

OTAY WATER DISTRICT

DATE: 02/22/2010

RECORDING REQUESTED BY
AND AFTER RECORDATION
MAIL TO:

For Recorder's Use

OTAY WATER DISTRICT
2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CA 91977-7299

Documentary Transfer Tax: None
(Exempt under Rev & Tax Code Section 11922)

**TEMPORARY CONSTRUCTION EASEMENT TO
OTAY WATER DISTRICT**

APN: 644-080-11

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned **THE CITY OF CHULA VISTA, A MUNICIPAL CORPORATION**, as **Grantor(s)** hereby **GRANT(S)** to **OTAY WATER DISTRICT**, a municipal water district formed under the Municipal Water District Law of 1911, as amended, situated in the County of San Diego, State of California, as **Grantee**, and to Grantee's contractors, a temporary construction easement ("Easement") and the right to access, use and occupy the surface and subsurface of said easement for a period of twelve (12) months, commencing upon Grantor's receipt of written notice from Grantee of commencement of construction activity. The Easement is located in the County of San Diego, State of California, more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** attached hereto and made a part hereof. The Easement and right of access shall extend to all acts necessary for the purpose of constructing a recycled water line and related appurtenant structures associated with the Otay Mesa Recycled Water Supply Link Project.

Grantor further grants to Grantee the right of unobstructed ingress and egress to the Easement, including the right to pass and re-pass over and along the Easement and to deposit tools, implements and other materials on the Easement and to utilize construction, automotive and other equipment thereon when necessary for the purpose of exercising its rights hereunder.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement to a compacted, neat, clean condition, but not necessarily the same condition as prior to such work, and shall replace any fencing or other improvements removed by Grantee or Grantee's contractors.

OWD EASEMENT NO. _____
OWD CIP R2087-001102

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Construction Easement as of this ____ day of _____, 2010.

By: _____

By: _____

[Each signature of Grantor must be acknowledged in the form attached hereto]

DISTRICT CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant of Easement of Right of Way to Otay Water District dated _____, 2010 from THE CITY OF CHULA VISTA to OTAY WATER DISTRICT, a municipal water district, is hereby accepted by order of the Board of Directors pursuant to the authority conferred by Resolution No. 1829, adopted on February 23, 1981, and the grantee consents to recordation thereof by its duly authorized officer.

Date: _____

By: _____
Susan Cruz, District Secretary

EXHIBIT "A"
LEGAL DESCRIPTION
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PAGE 1 OF 2

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EXHIBIT "A"
LEGAL DESCRIPTION
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PAGE 2 OF 2

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AS SHOWN ON EXHIBIT "B", ATTACHED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF.

DATED THIS 22ND DAY OF FEBRUARY, 2010





JIMMY J. ELMORE
EXP. 12-31-2010

L.S. 8483



ATTACHMENT E

SUBJECT/PROJECT: R2087-001102	Authorization to Acquire an Easement from the City of Chula Vista for the Wueste Road portion of the Recycled Water Supply Link Project
-----------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------

Copy of the Purchase Agreement between the City of Chula Vista and the Otay Water District.

THE CITY OF CHULA VISTA

PURCHASE AGREEMENT

CITY OF CHULA VISTA,
California Municipal Corporation

"GRANTOR"

OTAY WATER DISTRICT,

"GRANTEE"

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT ("Agreement") is entered into as of _____, 2012, by and between Otay Water District, ("Grantee" or "Otay"), and The City of Chula Vista, a municipal corporation ("Grantor" or "City"). This Agreement shall be for the purchase and sale of an easement interest ("Easement Interest"), as described herein, over and under certain real property owned by the City, subject to the terms and conditions of this Agreement. This Agreement is made with reference to the following recitals.

RECITALS

WHEREAS, City owns that certain real property ("Property") located in the City of Chula Vista within a master planned community in the City of Chula Vista commonly known as "Otay Ranch"; and

WHEREAS, On October 28, 1993, the San Diego County Board of Supervisors and the City Council of the City of Chula Vista jointly adopted the Otay Ranch General Development Plan/Subregional Plan ("GDP"), including the Otay Ranch Phase 1 Resource Management Plan ("RMP 1") which governs the development and use of the Otay Ranch Project; and

WHEREAS, on March 6, 1996, the San Diego County Board of Supervisors adopted the Otay Ranch Phase 2 Resource Management Plan ("RMP 2") and on June 4, 1996, the City Council of the City of Chula Vista adopted the RMP 2; and

WHEREAS, the City adopted, as an element of its General Plan, the City's Subarea Plan for the regional San Diego Multiple Species Conservation Program in which the Incidental Take of Covered Species Subject to Incidental Take is authorized, under Section 10(a) permit issued by the USFWS and/or the CESA/NCCP Authorization issued by the CDFG, to the City in accordance with the City's Subarea Plan and the Implementation Agreement

WHEREAS, Grantee wishes to purchase an easement interest on, over under across and through the Property; and

WHEREAS, the easement interest is specifically described in Exhibit "A" and depicted on Exhibit "B", attached hereto and, by this reference, incorporated herein; and

WHEREAS, the he City wishes to sell the Easement Interest to Grantee for the sole uses and subject to the terms and conditions herein.

NOW, THEREFORE, for mutual consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I. DEFINITIONS

Unless the context otherwise indicates, the following shall have the meanings as set forth in this Article:

“100% Conservation Area” means lands within the City of Chula Vista for which hard-line Preserve boundaries have been established and where the conserved portion will be managed for its biological resources.

"Acceptance of this Agreement" means the date of signature of Grantee or Grantor, whichever entity is the last to affix its signature to this Agreement.

"Cash" means (i) currency, (ii) a check or checks currently dated and payable to City of Chula Vista or money order and honored upon presentation for payment, or (iii) funds wire transferred or otherwise deposited into an account as directed by the City.

“CEQA” means the California Environmental Quality Act (California Public Resources Code 21000 et seq.), including all regulations promulgated pursuant to that Act.

“Chula Vista MSCP Subarea Plan” means the Subarea Plan prepared by the City of Chula Vista and reviewed and approved by the Wildlife Agencies, and adopted by the City of Chula Vista as part of the City’s General Plan, to implement the MSCP Subregional Plan within the Chula Vista Subarea.

“Chula Vista Covered Species” means those Covered Species which are adequately conserved by the Chula Vista Subarea Plan, together with other Subarea Plans within the MSCP Subregional Plan Area, in effect during the duration of the City’s Section 10(a)(1)(B) permit issued by the USFWS and Take Authorization issued by CDFG, including Species Adequately Conserved. Adequate conservation for certain Chula Vista Covered Species shall include the measures contained in the findings for those species in Table 3-5 of the MSCP Subregional Plan which is incorporated in the Chula Vista Subarea Plan (Appendix A).

"Closing Date" means date of recordation of the Easement Deed

"City" means the City of Chula Vista.

"County" means the County of San Diego, State of California.

"Otay" means the Otay Water District.

“Covered Species” Those species within the MSCP Subregional Plan which will be adequately conserved by the MSCP when the MSCP is implemented through the Subarea Plans, including Species Adequately Conserved, listed on Table 4 –1, as well as the Covered Species listed on Tables 4-2 and 4-3 of the Chula Vista Subarea Plan.

“Easement Interest” means a permanent easement interest together with the right to use and occupy the surface and subsurface (“Easement Interest”) over and under portions of the Property subject to

the provisions contained in the Grant of Easement and this Agreement.

“Future Facilities” means facilities that are necessary to support City services or planned development in the future and are not specifically listed as a Planned Facility in the MSCP.

"General and special real estate taxes" means all charges evidenced by the secured tax bill issued by the Tax Collector of the County, including, but not limited to, amounts allocated to (i) County or City general governmental purposes, (ii) bonded indebtedness of the County or City, (iii) bonded or other indebtedness and operating expenses of any school, college, sewer, water, irrigation, hospital, library, utility, county service, community facilities district or other district, and (iv) any other lawful purpose.

“Hazardous Materials” means any substance, material or waste which is or becomes (1) regulated by any local or regional governmental authority, the State of California or the United States Government as hazardous waste, (ii) is defined as a “solid waste”, “sludge”, “hazardous waste”, “extremely hazardous waste”, “restricted hazardous waste”, “Non-RCRA hazardous waste,” “RCRA hazardous waste”, or “recyclable material”, under any federal, state or local statute, regulation or ordinance, including without limitation Sections 25115, 25117, 25117.9, 25120.2, 25120.5, 251227, 25140, 25141 of the California Health and Safety Code; (iii) defined as “Hazardous Substance” under Section 25316 of the California Health and Safety Code; (iv) defined as a “Hazardous Material”, “Hazardous Substance”, or “Hazardous Waste” under Section 25501 of the California Health and Safety Code; (v) defined as a “Hazardous Substance” under Section 25281 of the California Health and Safety Code; (vi) asbestos; (vii) petroleum products, including without limitation, petroleum, gasoline, used oil, crude oil, waste oil and any fraction hereof, natural gas, natural gas liquefied, natural gas or synthetic fuels, (viii) materials defined as hazardous or extremely hazardous pursuant to the California Code of Regulations; (ix) polychlorinated biphenyls; (x) defined as a “Hazardous Substance” pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1251, *et seq.*); (xi) defined as a “Hazardous Waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.*, (xii) defined as a “Hazardous Substance” or “Mixed Waste” pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.* and regulations promulgated hereunder; (xiii) defined as a “Hazardous Substance” pursuant to Section 401.15 of the Clean Water Act, 40 C.F.R. 116; OR (xiv) defined as an “Extremely Hazardous Substance” pursuant to Section 302 of the Superfund Amendments and Reauthorizations Act of 1986, 42 U.S.C. Section 11002, *et seq.*

“Habitat Loss and Incidental Take (HLIT) Ordinance” – means the City’s implementing ordinance which establishes mitigation standards for biological resources and implements the Chula Vista Subarea Plan outside of Covered Projects. Third Party Beneficiary status will be extended to persons and entities under the jurisdiction and control of the City of Chula Vista through permits issued pursuant to the HLIT.

”MSCP Subregional Plan” means the Multiple Species Conservation Program Plan, a comprehensive habitat conservation planning program dated August 1998 which addresses multiple Species habitat needs and the preservation of native vegetation for a 900-square mile area in southwestern San Diego County, California.

“Otay Ranch Preserve” means the 11,375-acre habitat conservation area established by the Otay Ranch Phase 1 Resource Management Plan.

“Preserve” means the area designated in the GDP, including the RMP 1 and RMP 2 and the MSCP which has been or would be conveyed for permanent conservation and which will in the areas located in Otay Ranch be managed for its biological resources by the POM, as defined below.

“Preserve Owner/Manager (“POM”) means the entity responsible for overseeing the day to day and long range Preserve management activities within the Otay Ranch Preserve, including but not limited to management of resources, restoration of habitat and enforcement of open space restrictions, pursuant to the RMP 1 and RMP 2. The City and County are currently acting as the POM pursuant to a joint powers authority agreement.

“RMP 1” means the Otay Ranch Phase 1 Resource Management Plan, as jointly adopted by the San Diego County Board of Supervisors and the City Council of the City of Chula Vista on October 28, 1993.

“RMP 2” means the Otay Ranch Phase 2 Resource Management Plan, as adopted by the City Council of the City of Chula Vista on June 4, 1996 and by the San Diego County Board of Supervisors on March 6, 1996.

“Take” Refers to the meaning provided by the Endangered Species Act and the California Fish and Game Code, including relevant regulations and case law.

“Take Authorization” means the Permit authority granted through a Section 10(a)(1)(B) Permit pursuant to the ESA and/or the Section 2835 permit pursuant to the NCCP Act.

“Third Party Beneficiary” refers to any landowner or other public or private entity that obtains Take Authorization through the City of Chula Vista’s Take Authorization.

“Wildlife Agencies” means the California Department of Fish and Game or U.S. Fish and Wildlife Service.

Biologically Significant Resource Area (BRSA) is defined as habitat areas that support rare vegetation types and species, greater species diversity, are part of core areas of habitat or function as key linkages or corridors for species. These types of habitat areas are generally the focus for conservation by the NCCP/HCP and other conservation plans. The NCCP/HCP uses the term "biologically significant resource area" to include the following types of habitat areas within the Plan Area: an upland or wetland habitat management area (e.g., all existing Otay committed lands in the NCCP/HCP), and areas that have been designated in approved (or in-approval stage) conservation plans as biological resource core areas, pre-approved mitigation areas, corridors/linkages or equivalent designated/defined terms.

ARTICLE II. RESERVATION OF RIGHTS

- 2.1 Reservation of Rights. The transfer of the Property shall be subject to the reservation of the following rights:
- a. Brush Clearance. City reserves and maintains the right to perform brush clearance as necessary within designated development areas on the Property.
 - b. Fuel Modification Zone. In order to create or maintain defensible space necessary for effective fire protection, City reserves and maintains the right to establish Fuel Modification Zones within designated development areas on the Property.

ARTICLE III. PURCHASE AND TRANSFER OF TITLE

- 3.1 Satisfaction of Condition Precedent. To the extent that Article II of this Agreement contains conditions precedent, the Grantor shall be obligated to sell and Grantee to purchase the Easement Interest subject to the terms and conditions herein upon satisfaction of such conditions precedent. In the absence of such conditions, the obligations of the parties identified herein shall become effective upon the execution of this Agreement.
- 3.2 Purchase Price. The purchase price of the Easement Interest shall be SIXTY-SIX THOUSAND AND EIGHT HUNDRED DOLLARS (\$66,800.00) ("Purchase Price"). The Purchase Price includes any severance damage to the remainder of the Property.
- 3.3 Pre-Closing. Prior to the Closing Date, Grantor shall remove existing deeds of trust or mortgages, if any. The Easement Interest shall not be encumbered in any manner except as follows:
- a. Taxes and Assessments. General and special real estate taxes and assessments (including, but not limited to, those of the assessment districts referred to in the Article below entitled "Assessment Districts") which are, in existence as of the Closing Date, and supplemental taxes, if any, assessed pursuant to California Revenue and Taxation Code Section 75, and
 - b. Approved Encumbrances. Any encumbrance agreed to by Grantee, and Easements of Record existing as of the Closing Date.
- 3.4 Closing. On or before the Closing Date, the Purchase Price shall be paid by Grantee, in Cash, provided the Grantor delivers to the Grantee at the Closing Date a fully executed deed for the Easement Interest in the form attached as Exhibit "A" free and clear of all encumbrances, except as described in Section 3.3, above.
- 3.5 Extension of Closing Date. If the Agreement cannot be completed on or before the Closing Date, the Parties may agree in writing to nevertheless complete this transaction when all conditions have been satisfied or waived unless, after the Closing Date either party to this Agreement receives a written notice to terminate this Agreement, pursuant to Article VII.

ARTICLE IV. PRESERVE

- 4.1 **Applicable Laws.** To the extent any provision of this Agreement conflicts with the provisions of any permits or approvals, from any state, federal or county agency, the more restrictive provisions shall control unless prohibited by law. Notwithstanding any other provisions herein, the Otay Water District shall be subject to and comply with all applicable state and federal laws and regulations, as well as, other applicable City Municipal Code Sections, including but not limited to the City's HILT Ordinance (CVMC Section 17.35).
- 4.2 **Otay Water District Responsibility.** Otay acknowledges and agrees that should the Otay Water District construct, re-locate improvements and/or facilities, or conduct any activities in the Easement Interest, that Otay shall be solely responsible for complying with any environmental review required under CEQA, applicable state and federal laws, and any applicable City requirements. Otay further acknowledges and agrees that shall be solely responsible for the mitigation of any temporary and/or permanent impacts within the Easement Interest resulting from the construction or re-location of such facilities and/or improvements including any related activities.
- 4.3 **Impacts to MSCP Covered Species.** Otay acknowledges and agrees that any future work within Easement Interest has to potential to impact sensitive biological resources, including impacts MSCP Covered Species and their habitats. Otay further understands that, prior to implementing any construction activities within the Easement Interest, it shall obtain a Take permit from either the Wildlife Agencies or through the City's MSCP Subarea Plan for any impacts to MSCP Covered Species.
- 4.4 **Permits from the City.** In the event the City allows any future project within the Easement Interest to be processed under the City's MSCP Subarea Plan, the Otay Water District acknowledges and agrees that it shall fully comply with the City's MSCP Subarea Plan, HLIT permitting requirements, all required mitigation requirements associated with any temporary and/or permanent impacts to MSCP Covered Species and their habitats. Otay further acknowledges and agrees that the City may, in its sole discretion, authorize or deny Take under the City's MSCP coverage for Future Facilities pursuant to Section 6.3 of the City's MSCP Subarea Plan. Mitigation for any temporary and/or permanent impacts to MSCP Covered Species and their habitats processed under the City's MSCP Subarea plan shall be subject to the following provisions:
- 4.4.1 **Mitigation for Temporary Impacts.** The Otay Water District acknowledges and agrees that it shall be solely responsible for the mitigation of all temporary impacts associated with the construction of any Future Facilities within the Easement Interest to the satisfaction of the City and the Wildlife Agencies. Mitigation may include, but not limited to, restoration of all temporary impacts areas pursuant to a restoration plan prepared by a qualified biologist familiar with the City's MSCP Subarea Plan and subject to the City's review and approval. The restoration plan shall include, at a minimum, an implementation strategy; species salvage and relocation, appropriate seed mixtures and planting method; irrigation; quantitative and qualitative success criteria; maintenance, monitoring, and reporting program; estimated completion time; and contingency measures. Otay further acknowledges and agrees that it shall implement the revegetation plan subject to the

oversight and approval of the Development Services Director (or their designee).

4.4.2 Mitigation for Permanent Impacts. In the event that the Otay Water District proposes any future activities within the Easement Interest that may result in permanent impacts within the City's MSCP Preserve (as may be amended from time to time) and the City, in its sole discretion, authorizes or denies Take under the City's MSCP coverage for Future Facilities pursuant to Section 6.3 of the City's MSCP Subarea Plan, Otay agrees to provide the City with equitable compensation to offset the impact on the City's MSCP Future Facility acreage allocation. The amount of acreage to be compensated shall be determined based on final engineering design and in consultation with the Wildlife Agencies.

- 4.5 Development Permits, Plans, Maps and Documents. The Otay Water District shall be responsible for all City expenses related to the preparation, review and/or processing of all required permits, plans, maps and documents, and City staff time necessary to site, construct, mitigate, maintain and/or operate any facilities or improvements within the Easement Interest in accordance with the provisions herein and other applicable requirements.

ARTICLE V. TITLE POLICY

- 5.1 If the Grantee so elects, Grantee may obtain, at its sole expense, a CLTA Owner's policy of title insurance ("Title Policy"), together with any endorsements from Title Insurer, for the Easement Interest in the amount of the total Purchase Price. Within two (2) business days of a request to produce from the Title Insurer to the Grantor, Grantor shall furnish such information as required by Title Insurer in order for the Grantee to obtain said Title Policy.

ARTICLE VI. PRORATION, FEES, COSTS, AND REIMBURSEMENTS

- 6.1 Taxes. The Grantee represents that it is a public entity exempt from property taxes. Grantor's Obligations. At least two (2) business days prior to Closing Date, Grantor shall pay any amounts required by this Article entitled "Proration's, Fees, Costs, and Reimbursements" to be paid by Grantor. Grantor shall provide the Grantee of proof of said payments prior to the Closing Date.

ARTICLE VII. TERMINATION OF AGREEMENT

- 7.1 Termination for Convenience. Notwithstanding any provisions in this Agreement, City or Otay may terminate this Agreement at any time up to two (2) business days prior to the Closing Date for any reason, by giving specific written notice to the other party of such termination and specifying the effective date thereof. City and Otay hereby expressly waive any and all claims for damages or compensation arising from or as a result of said termination of this Agreement in accordance with this provision.

- 7.2 Termination for Cause. If, through any cause, either party shall fail to fulfill in a timely and proper manner any obligation under this Agreement, or violate any of its covenants, agreements or conditions, the party not in breach shall have the right, but not the obligation, to terminate this Agreement by giving written notification of such termination and specifying the effective date thereof at least five (5) days before termination.
- 7.3 Other Remedies. In addition to the option to terminate the Agreement for a breach pursuant to Section 7.2, above, the non-breaching party shall have the right to seek any and all remedies available under equity and law.
- 7.4 Return Property to Original Condition. If this Agreement is terminated for any reason, Grantee will, immediately after such termination, at Grantee's sole cost, return the Property to its present physical condition or as close thereto as reasonably possible.
- 7.5 Continuing Obligations. Notwithstanding any provision herein, termination of this Agreement for any reason will not terminate Grantee's obligations that are intended to survive termination.

ARTICLE VIII. ASSESSMENT DISTRICTS

- 8.1 Grantee's Investigation. It shall be incumbent on Grantee to conduct its own investigation of each and any assessment district that may encumber the Easement Interest and to become familiar with each of the same prior to the execution of this Agreement and through the execution of this Agreement, Grantee acknowledges its complete understanding of such encumbrances.

ARTICLE IX. HAZARDOUS MATERIALS

- 9.1 Grantor's Representations and Warranties. Grantor represents and warrants that (i) Grantor has no actual knowledge that there has been released on or beneath the Easement Interest or Property any Hazardous Materials, and (ii) Grantor is not aware of any environmental condition on the Easement Interest or the Property which would be in violation of any applicable federal, state, or local law, ordinance or regulation relating to Hazardous Materials.
- 9.2 Release of Grantor.
- a. Release. As a material inducement to Grantor without which Grantor would not have agreed to sell the Easement Interest herein, Grantee for itself and its successors and assigns, hereby fully and forever releases Grantor and each of Grantor's employees, officers, agents, attorneys, or representatives of Grantor ("Released Parties") from any and all present or future liability, claims, demands, actions, causes of action and rights

(contingent, accrued, inchoate or otherwise) of any kind, whether currently known or not (“Claims”) which Grantee may have against any of the Released Parties, arising out of our connected in any way with the actual or alleged presence, use, generation, storage, transportation, release or discharge of Hazardous Materials on, beneath, above or in the vicinity of the Easement Interest.

- b. Waiver. Grantee waives and releases Grantor from any and all present or future claims it may have against the Released Parties arising under the Comprehensive Environmental Response, Compensation, Liability Act of 1980 as amended from time to time (“CERCLA”) or any other federal, state or local law, whether statutory or common law, ordinance, or regulation, pertaining to the presence, use, generation, storage, transportation, release, discharge or cleanup (including paying the costs thereof) of Hazardous Materials on, beneath, above or in the vicinity of the Easement Interest.

In connection with the foregoing releases, Grantee expressly waives all rights and benefits under California Civil Code Section 1542, which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

Grantee’s Signature

Date

Grantor’s Initials

Grantee represents that it has had the opportunity to discuss the meaning and effect of this waiver with legal counsel. Grantee warrants that this waiver is informed, knowing and voluntary.

ARTICLE X. RIGHT TO ENTER

- 10.1 Right to Enter Property. The City shall have the right to enter the Property in order to exercise its rights identified in Article II, above. This provision in no way shall limit any rights the City may otherwise have to enter property pursuant to existing law.

ARTICLE XI. MUTUAL INDEMNITY

- 11.1 Grantee’s Indemnity Obligation. Grantee shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers, employees, and agents from and against any and all claims, demands, causes of action, costs, expenses, liability, loss, damage

or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out or related to this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses (including without limitations, attorneys fees) arising from the sole negligence or sole willful misconduct of the City, its elected and appointed officers, employees, and agents. Also covered is liability arising from, connected with, or caused by the active or passive negligent acts or omissions of the Grantee, its officers, employees, agents, and contractors that may be in combination with the active or passive negligent acts or omissions of the City, its elected and appointed officers, employees, and agents and/or any third party (Joint Negligence). To the extent that active or passive negligent acts or omissions of the Grantee, its officers, employees, agents, and contractors are in combination with the active or passive negligent acts or omissions of the City, its elected and appointed officers, employees, and agents, Grantee's Indemnity obligations under this Agreement shall be reduced in an amount directly proportional to the City's percentage of fault established.

- 11.2 Grantor's Indemnity Obligation. Grantor shall defend, indemnify, protect and hold harmless the Grantee, its officers, employees, agents, and contractors from and against any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or related to this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses (including without limitations, attorneys fees) arising from the sole negligence or sole willful misconduct of the Grantee, its officers, employees, agents, and contractors. Also covered is liability arising from, connected with, or caused by the active or passive negligent acts or omissions of the City, its elected and appointed officers, employees, and agents that may be in combination with the active or passive negligent acts or omissions of the Grantee, its officers, employees, agents, and contractors and/or any third party. To the extent that active or passive negligent acts or omissions of the Grantee, its officers, employees, agents, and contractors are in combination with the active or passive negligent acts or omissions of the City, its elected and appointed officers, employees, and agents, Grantee's Indemnity obligations under this Agreement shall be reduced in an amount directly proportional to the City's percentage of fault established.
- 11.3 Costs of Defense and Award. Included in the obligations in Sections 11.1 and 11.2, above, is the indemnifying party's ("Indemnitor")'s obligation to defend, at the Indemnitor's own cost, expense and risk, any and all aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the party to whom the indemnity obligation is owed ("Indemnitee"). The Indemnitor shall pay and satisfy any judgment, award or decree that may be rendered against Indemnitees, for any and all legal expense and cost incurred by each of them in connection therewith.
- 11.4. Insurance Proceeds. Indemnitors obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Indemnitees.
- 11.5. Enforcement Costs. Indemnitor agrees to pay any and all costs Indemnitee incurs enforcing the indemnity and defense provisions set forth in Article XI.

- 11.6 Survival. Indemnitors obligations under Article XI shall survive the termination of this Agreement.

ARTICLE XII. FURTHER REPRESENTATIONS, WARRANTIES AND DISCLOSURES

- 12.1 Basis of Purchase. Grantee acknowledges that it is purchasing the Property in reliance solely on (i) Grantee's inspection of the Property, (ii) Grantee's independent verification of the truth of any documents delivered by Grantor to Grantee and its independent verification of any statements made by Grantor to Grantee concerning the Property and the Easement Interest, and (iii) the Grantee's opinions and advice concerning the Property and the Easement Interest.
- 12.2 "As Is" Purchase. Grantee is relying solely upon its own inspection, investigation, and analysis of the Easement Interest in entering into this Agreement. The Easement Interest shall be conveyed to Grantee on an "as is" basis. Grantor and its members, officers, managers, affiliates, agents, employees, successors and assigns shall not be liable for any loss, damage, injury or of any kind or character to the Grantee or any person or property, arising from or caused by the Easement Interest, including but not limited to, any of the following matters:
- a. Soils, Topography, Etc. Soils and geological condition; topography, area and configuration; archeological, prehistoric and historic artifacts, remains and relics; and/or the existence of any endangered species.
 - b. Assessment Districts. The future status of any and all assessment districts that may impact the Easement Interest.
 - c. Entitlements. The ability to receive take authorization or to use the Easement Interest in a manner that may be contemplated by the Grantee.
 - d. County. Any actions taken by the County resulting from the Grantee's purchase of the Easement Interest.

ARTICLE XIII. NOTICES

- 13.1 Method of Notification. All notices and demands shall be given in writing by personal delivery or first-class mail, postage prepaid, addressed to the Administrator, or his/her designee, designated below for the respective party.
- 13.2 Designation and Contact Information. The following, including their respective addresses, are hereby designated as Administrators for the purposes of this Agreement only:

Rick Ryals

Real Property Manager
City of Chula Vista
Public Works/Engineering
276 Fourth Avenue
Chula Vista, CA 91910

OTAY WATER DISTRICT
ATTN: Kevin Cameron, Asst. Civil Engineer
2554 Sweetwater Springs Blvd.
Spring Valley, CA 91978

- 13.3 Changes. If the Administrator, designee or address of either party changes, notice of the change shall be sent to the other party. After the receipt of the notice of change, all future notices or demands shall be sent as required by the notice of change.

ARTICLE XIV. GENERAL PROVISIONS

- 14.1 Headings. All article headings are for convenience only and shall not affect the interpretation of this Agreement.
- 14.2 Gender & Number. Whenever the context requires, the use herein of (i) the neuter gender includes the masculine and the feminine genders and (ii) the singular number includes the plural number.
- 14.3 Reference to Paragraphs. Each reference in this Agreement to a section refers, unless otherwise stated, to a section of this Agreement.
- 14.4 Incorporation of Recitals and Exhibits. All recitals herein and exhibits attached hereto are incorporated into this Agreement and are made a part hereof.
- 14.5 Covenants and Conditions. All provisions of this Agreement expressed as either covenants or conditions on the part of the Parties shall be deemed to be both covenants and conditions.
- 14.6 Integration. This Agreement and any exhibits or references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties or an amendment to this Agreement agreed to by both Parties. All prior negotiations and agreements are merged into this Agreement.
- 14.7 Severability. In the event that any phrase, clause, paragraph, section or other portion of this Agreement shall become illegal, null or void, or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, against public

policy, or otherwise unenforceable, the remaining portions of this Agreement shall not be affected and shall remain in force and effect to the fullest extent permissible by law.

- 14.8 Drafting Ambiguities. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision that is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.
- 14.9 Conflicts Between Terms. If an apparent conflict or inconsistency exists between the main body of this Agreement and any exhibits, the main body of this Agreement shall control unless prohibited by law. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.
- 14.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one instrument.
- 14.11 Compliance With Law. Grantee shall, at its sole cost and expense, comply with all the requirements of municipal, state, and federal authorities now in effect or which may hereafter be in effect related to this Agreement.
- 14.12 Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California. This Agreement shall be deemed made and entered into in San Diego County, California.
- 14.13 Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement, against the City unless a claim has first been presented in writing and filed with the City and acted upon by the City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by the City in the implementation of same.
- 14.14 No Suit or Arbitration may be brought against the Otay unless a claim has first been presented and filed in writing with the Otay.
- 14.15 Fees. In the event any action or proceeding shall be instituted in connection with this Agreement, including without limitation the enforcement of any indemnification obligation contained herein, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' fees and costs incurred in bringing or defending such action or proceeding and/or enforcing any judgment granted.

- 14.16 Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the federal or state courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement and performance hereunder, shall be the City of Chula Vista.
- 14.17 Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California, or of the Otay District as a Municipal Water District.
- 14.18 Assignment. The Parties shall not assign this Agreement or any right or privilege hereunder to any Party without the express written consent of the other Party. Consent to an assignment by the City or Otay shall not be deemed to be consent to any subsequent assignment. Any such assignment without such consent shall be void.
- 14.19 Successors. All terms of this Agreement will be binding upon and inure to the benefit of the parties and their respective administrators or executors, successors and assigns.
- 14.20 No Waiver. No failure of either Party to insist upon the strict performance by the other Party of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any default hereunder shall be implied from any omission to take any action on account of such default. The consent or approval to or of any act requiring consent or approval shall not be deemed to waive or render unnecessary future consent or approval for any subsequent similar acts. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.
- 14.21 Additional Rights. No rights other than those specifically identified herein shall be implied from this Agreement.
- 14.22 Cumulative Remedies. All rights, options, and remedies of the Parties contained in this Agreement shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and the Parties shall have the right to pursue any one or all of such remedies or to seek damages or specific performance in the event of any breach of the terms hereof or to pursue any other remedy or relief which may be provided by law or equity, whether or not stated in this Agreement.
- 14.23 Good Faith. The Parties promise to use their best efforts to satisfy all conditions to this Agreement and to take all further steps and execute all further documents reasonably necessary to put this Agreement into effect.
- 14.24 Not an Offer. Grantor's delivery of unsigned copies of this Agreement is solely for the purpose of review by the party to whom delivered, and neither the delivery nor any prior

communications between the parties, whether oral or written, shall in any way be construed as an offer by Grantor, nor in any way imply that Grantor is under any obligation to enter the transaction which is the subject of this Agreement. The signing of this Agreement by Grantee constitutes an offer, which shall not be deemed accepted by Grantor unless and until Grantor has signed this Agreement.

14.25 Survival of Provisions. The representations, warranties, agreements and indemnities set forth in this Agreement will remain operative, will be deemed made at the Closing Date and will survive the closing and the execution and delivery of Grantor's easement deed.

14.26 Authority of Signatories. Grantee and Grantor each represent that: (i) the individuals executing this Agreement have the legal capacity to enter into this Agreement and are authorized to do so on behalf of each of their respective entities in accordance with an adopted resolution and (ii) this Agreement is binding upon the entities in accordance with its terms of its Charter or operating provisions.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE OF PURCHASE AGREEMENT BY
AND BETWEEN THE CITY OF CHULA VISTA
AND THE OTAY WATER DISTRICT

This Agreement has been executed in San Diego County, California, as of the date set forth at the beginning hereof.

GRANTOR:

GRANTEE:

THE CITY OF CHULA VISTA,
a California municipal corporation

OTAY WATER DISTRICT,
a Municipal Water District

By: _____
Title

By _____
Title

Date: _____

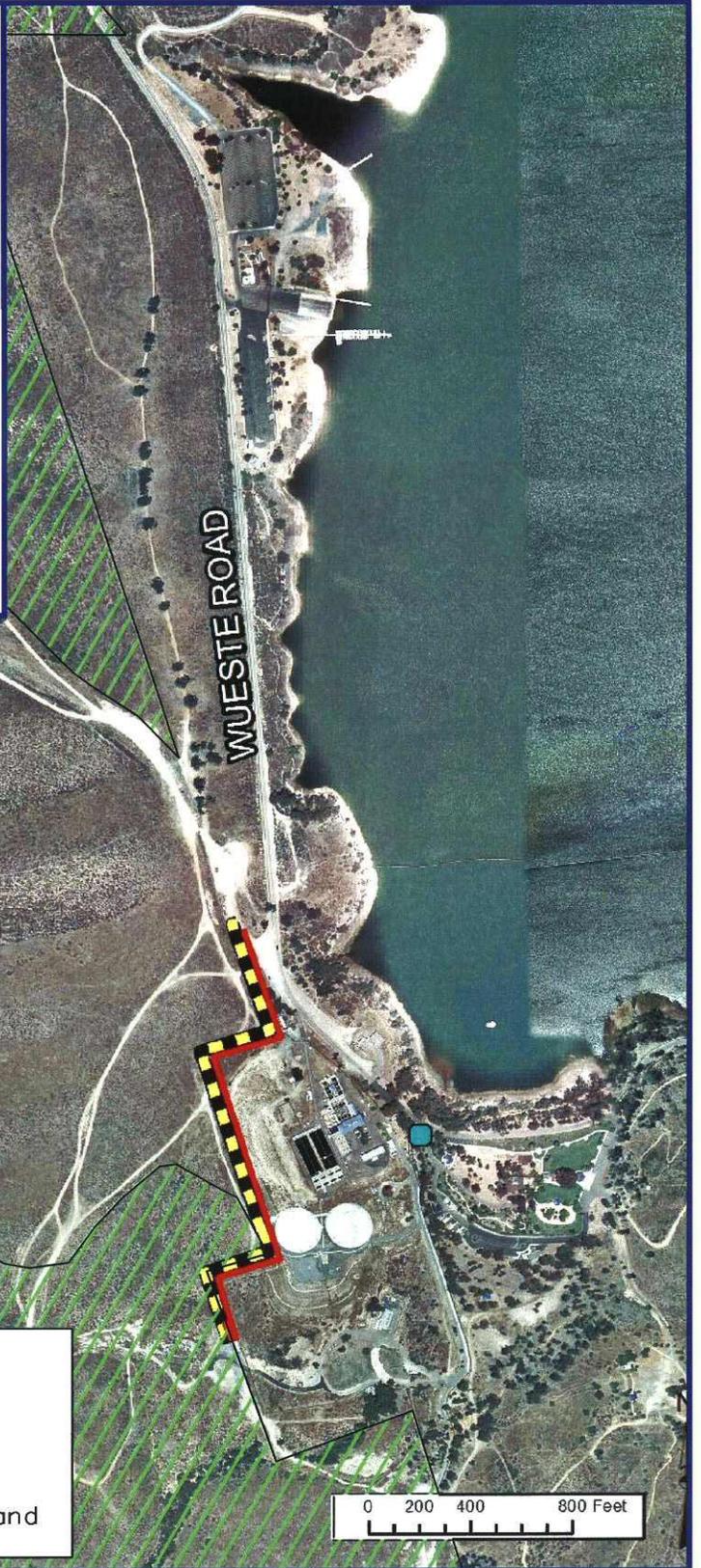
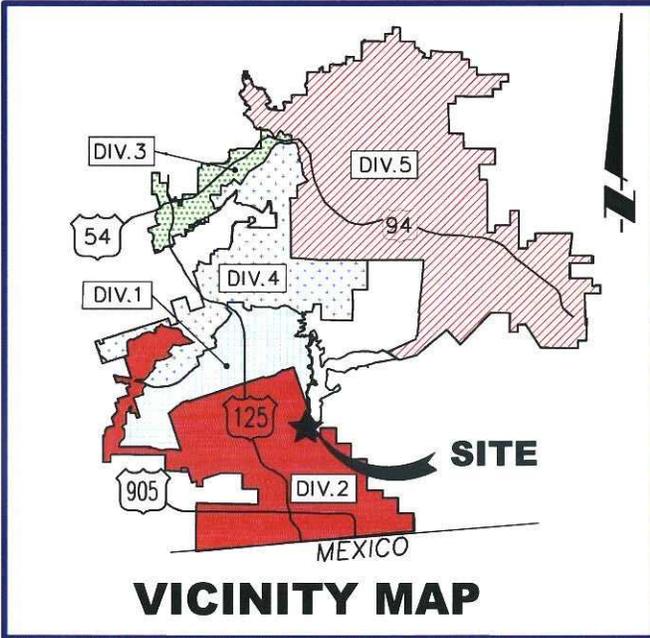
Date: _____

Approved as to form:

Glen Googins, City Attorney

Attest:

Donna Norris
City Clerk



LEGEND

-  Proposed Pipeline Easement
-  Proposed Temporary Construction Easement
-  Chula Vista 100% Preserve Land



OTAY WATER DISTRICT
 WUESTE ROAD
 PIPELINE AND TEMPORARY CONSTRUCTION EASEMENT
 R2087

EXHIBIT A



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 1, 2012
SUBMITTED BY:	Lisa Coburn-Boyd <i>LCB</i> Environmental Compliance Specialist	PROJECT/ SUB-PROJECT:	R2096- DIV. 5 001102 NO.
	Ron Ripperger <i>RR</i> Engineering Manager		
APPROVED BY: (Chief)	Rod Posada <i>RPosada</i> Chief, Engineering		
APPROVED BY: (Asst. GM):	Manny Magaña <i>M Magaña</i> Assistant General Manager, Engineering and Operations		
SUBJECT:	Change Order No. 3 to the Contract with Montgomery Watson Harza for the Ralph W. Chapman Water Recycling Facility Upgrade Project		

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board of Directors (Board) approves Change Order No. 3 to the existing contract with Montgomery Watson Harza (MWH) for the Ralph W. Chapman Water Recycling Facility (RWCWRF) Upgrade Project, in an amount not-to-exceed \$21,500 (see Exhibit A for Project location).

COMMITTEE ACTION: _____

Please see Attachment A.

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Order No. 3 in an amount not-to-exceed \$21,500 to the contract with MWH for the RWCWRF Upgrade Project.

ANALYSIS:

At the October 7, 2009 Board Meeting, MWH was awarded a professional engineering services contract for the RWCWRF Upgrade Project. This Project consists of the pre-design, design, and construction phase engineering services for the upgrade of the treatment plant. The specific elements of this upgrade include the modification of the existing aeration basins to achieve nitrification and de-nitrification, rehabilitation of

the blower system and associated aeration piping, replacement of the floating cover for the filter backwash storage reservoir, and selected automation enhancements for the facility. The Project is currently under construction.

MWH has been providing construction phase engineering services since the start of construction in August 2011. The complexity of the upgrade and the volume of RFI's and submittals have depleted the remaining funds in MWH's contract. It is important that the design engineers be available to assist the plant operations staff during the start-up phase of the construction. The nitrification/denitrification treatment process can be challenging to establish and the MWH design engineers will be able to guide the operations staff in setting the correct treatment parameters for the process. MWH instrumentation and electrical engineers will also be needed to troubleshoot any start-up issues for the new automation that is included in the plant upgrade.

Staff believes that the input from the MWH design team will be invaluable for a smooth start-up of the treatment process at the end of construction. The MWH Project Manager was asked to estimate the effort that would be needed to provide start-up services from the different disciplines and the amount for these services is \$21,500. See Attachment B for the MWH budget estimate.

FISCAL IMPACT:



The MWH contract is funded from CIP R2096. MWH's original contract amount was for \$458,813. There have been two change orders to date for this contract, Change Order #1 for \$83,301 and Change Order #2 for \$38,747 for a total contract amount of \$580,861. The previous change orders were necessary because of additions to the scope of the design. Since the aggregate of all change orders exceeds the General Manager's authority, Change Order #3 is required to go to the Board for approval.

The total budget for CIP R2096, as approved in the FY 2012 budget, is \$4,950,000. Expenditures to date are \$1,269,567. Total commitments to date, including this Change Order, are approximately \$4,875,955. See Attachment C for budget detail and Attachment D for Change Order No. 3.

Based on a review of the financial budget, the Project Manager has determined that the CIP R2096 budget will be sufficient to support this Project.

Finance has determined that 100% of the funding for this Project is available from the Replacement Fund.

STRATEGIC GOAL:

This Project supports the District's Mission statement, "To provide customers with the best quality water, wastewater, and recycled water service in a professional, effective, and efficient manner."

LEGAL IMPACT: _____

None.



General Manager

E:\WORKING\CIP R2096 - RWCWRF Upgrade Project\Staff Reports\BD 02-01-12, Staff Report, RWCWRF Upgrade Project_Change Order #3.docx

LCB/RR:jf

Attachments: Attachment A - Committee Action
Attachment B - MWH Budget Estimate - CO#3
Attachment C - Project Budget Detail
Attachment D - Contract/P.O. Change Order No. 3
Exhibit A - Project Location Map



ATTACHMENT A

SUBJECT/PROJECT: R2096-001102	Change Order No. 3 to the Contract with Montgomery Watson Harza for the Ralph W. Chapman Water Recycling Facility Upgrade Project
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on January 24, 2012 and the following comments were made:

- Staff requested that the Board approve Change Order No. 3 to the existing contract with Montgomery Watson Harza (MWH) for the Ralph W. Chapman Water Recycling Facility (RWCWRF) Upgrade Project, in an amount not-to-exceed \$21,500.
- Staff provided a history of the professional engineering services contract to MWH that was approved by the Board on October 7, 2009. The contract included the pre-design, design and construction phase engineering services for the upgrade of the RWCWRF.
- Staff indicated that although funds were allocated in the project budget for construction phase engineering services, the complexity of the design generated a large number of RFI's and in-depth submittal review by MWH and the funds for this task have been expended.
- Staff noted that it is vitally important that the design engineers be available to assist plant operations during the start-up phase of the construction, particularly since the treatment process will be different from what the operators are used to and the goal, which is to reduce the nitrogen levels in the plant effluent is a RWQCB permit requirement. Staff also indicated that there are upgrades to the electrical systems and automation enhancements that may need troubleshooting by the MWH electrical engineers.

- Staff stated that MWH was asked to estimate the level of effort needed for their start-up services. Attachment B of the staff report provides the estimate that includes engineering and project management effort for a total cost of approximately \$21,500.
- The Committee recommended that Exhibit A be changed to include the components of the upgrade project in order to provide a comparison of the facility's changes.

Following the discussion, the Committee supported staffs' recommendation and presentation to the full board as a consent item.



ATTACHMENT B

SUBJECT/PROJECT:	Change Order No. 3 to the Contract with Montgomery Watson Harza for the Ralph W. Chapman Water Recycling Facility Upgrade Project
R2096-001102	

MWH Services During Start-up

- The extension of time from October 14, 2011 through June 30, 2012 represents an additional 4 months of Project Management effort, including accounting and admin time for a total cost of \$4,282
- To be able to provide support during start-up, we estimate the total cost will be \$17,160, as detailed in the following table
- Our estimate of the total cost is \$21,442

Name	No. of Months	Hrs/Month	Hrs	Billing Rate (\$/hr)	Cost
Umphres	4	1	4	\$ 188	\$ 752
Kearney	4	4	16	\$ 188	\$ 3,008
Admin	4	1.5	6	\$ 87	\$ 522
				Subtotal	\$ 4,282

	No. of Site Visits	Hrs/Visit	Hrs	Billing Rate (\$/hr)	Cost (\$)
Kearney	10	2	20	\$ 188	\$ 3,760
Low	2	8	16	\$ 155	\$ 2,480
Mechanical Engineer	2	8	16	\$ 155	\$ 2,480
Electrical Engineer	3	8	24	\$ 155	\$ 3,720
I&C Engineer	3	8	24	\$ 155	\$ 3,720
Mileage Costs					\$ 1,000
				Subtotal	\$ 17,160
				Total	\$ 21,442



ATTACHMENT C

SUBJECT: R2096-001102	Change Order No. 3 to the Contract with Montgomery Watson Harza for the Ralph W. Chapman Water Recycling Facility Upgrade Project
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*Otay Water District
?WCWRF - Upgrades and Modifications*

Date Updated: December 13, 2011

Budget	Committed	Expenditures	Outstanding Commitment &	Projected Final Cost	Vendor/Comments
4,950,000					
Planning					
Add subprojects					
Labor	76,056	76,056		76,056	
Professional Legal Fees	4,916	4,916	-	4,916	STUTZ ARTIANO SHINOFF
	603	603	-	603	GARCIA CALDERON & RUIZ LLP
Regulatory Agency Fees	50	50	-	50	PETTY CASH CUSTODIAN
Consultant Contracts	242,545	242,545	-	242,545	MWH AMERICAS INC
	83,301	83,301	-	83,301	COM1 MWH AMERICAS
	12,775	12,775	-	12,775	MWH CONSTRUCTORS INC
	678	678	-	678	US BANK CORPORATE PAYMENT
Service Contracts	10,860	10,860	-	10,860	E S BABCOCK & SONS INC
	250	250	-	250	UNION TRIBUNE PUBLISHING CO
	68	68	-	68	SAN DIEGO DAILY TRANSCRIPT
Infrastructure Equipment & Ma	3,030	2,984	46	3,030	WALTERS WHOLESALE ELECTRIC CO
Total Planning	435,133	435,088	46	435,133	
Design					
Labor	98,170	98,170		98,170	
Mileage Reimbursement	16	16	-	16	PETTY CASH CUSTODIAN
Consultant Contracts	206,914	200,531	6,383	206,914	MWH AMERICAS INC
	38,747	38,747	-	38,747	COM2 MWH AMERICAS
	3,500	3,500	-	3,500	MWH CONSTRUCTORS INC
	8,470	8,470	-	8,470	MTGL INC
	4,209	4,209	-	4,209	WRA & ASSOCIATES INC
	580	580	-	580	VALLEY CONSTRUCTION MANAGEMENT
	499	499	-	499	SCHIFF ASSOCIATES
Service Contracts	4,395	4,395	-	4,395	MAYER REPROGRAPHICS INC
	2,400	2,400	-	2,400	PHOTO GEODETIC CORPORATION
	708	708	-	708	SAN DIEGO UNION-TRIBUNE LLC
	227	227	-	227	SAN DIEGO DAILY TRANSCRIPT
Total Design	368,834	362,452	6,383	368,635	
Construction					
Labor	73,713	73,713		73,713	
Rents and Leases	5,557	5,557	-	5,557	EQUIPCO SALES & SERVICE
Professional legal fees	292	292	-	292	STUTZ ARTIANO SHINOFF
Consultant Contracts	359,013	86,780	272,233	359,013	SAIG ENERGY ENVIRONMENT &
	4,060	4,060	-	4,060	VALLEY CONSTRUCTION MANAGEMENT
Construction Contracts	3,149,100	174,603	2,974,497	3,149,100	NEWEST CONSTRUCTION
	349,900	19,400	330,500	349,900	CALIFORNIA BANK & TRUST
					MWH AMERICAS, PENHALL,
Service Contracts	13,039	13,039	-	13,039	SO. CAL TELECOM
	21,500		21,500	21,500	COM3 MWH AMERICAS
	4,272	4,272	-	4,272	BARRETT ENGINEERED PUMPS
	223	180	43	223	RW LITTLE CO INC
Infrastructure Equipment & Ma	21,480	21,480	-	21,480	D & H WATER SYSTEMS INC
	13,006	12,166	840	13,006	FERGUSON WATERWORKS # 1083
	10,444	10,444	-	10,444	FLOMAX PRODUCTS INC
	8,586	8,586	-	8,586	MOORE INDUSTRIES-INTRNTL INC
	7,907	7,907	-	7,907	MOVE EXP FR S2018 TO R2096
	6,572	6,572	-	6,572	ROTORK CONTROLS INC
	3,890	3,863	27	3,890	GRAINGER INC
	3,376	3,376	-	3,376	WALTERS WHOLESALE ELECTRIC CO
	3,150	3,150	-	3,150	MCCROMETER INC
	1,834	1,834	-	1,834	F & L INDUSTRIAL SOLUTIONS INC
	1,733	1,681	52	1,733	MCMMASTER-CARR SUPPLY CO
	1,401	1,300	101	1,401	RW LITTLE CO INC
	853	842	11	853	ONESOURCE DISTRIBUTORS LLC
	434	434	-	434	EQUIPCO SALES & SERVICE
	239	225	14	239	NEWARK
	179	179	-	179	UNITED RENTALS NORTHWEST INC
Inventory	4,985	4,985	-	4,985	INVENTORY
Contracted Services	1,248	1,105	143	1,248	RW LITTLE CO INC
Total Construction	4,071,987	472,028	3,599,960	4,071,988	
Grand Total	4,875,955	1,269,587	3,806,389	4,875,956	

ATTACHMENT D

OTAY WATER DISTRICT
2554 SWEETWATER SPRINGS BLVD., SPRING VALLEY, CA. 91978, (619) 670-2222

CONTRACT/P.O. CHANGE ORDER No. 3

PROJECT/ITEM: Ralph W. Chapman Water Recycling Facility Upgrade Project
CONTRACTOR/VENDOR: MWH REF. CIP No.: R2096
APPROVED BY: Board of Directors REF. P.O. No: 711767 REF. WO No.: N/A DATE: 12/19/11

DESCRIPTION:

Provide construction phase start-up services for the modifications to the RWCWRF Upgrade project as detailed in the Attachment A, Additional Scope of Services, and Exhibit B, Budget Breakdown Per Task dated December 13, 2011.

REASON:

MWH will provide assistance to plant operations staff during the start-up phase of the construction. MWH design engineers will assist staff in setting the correct treatment parameters for the process and MWH instrumentation and electrical engineers will help troubleshoot any start-up issues for the new automation that is included in the plant upgrade.

CHANGE P.O. TO READ:

Revise Contract to add \$21,500.00 for a total Contract amount of \$602,361.00.
Completion date remains at 06/30/12.

ORIGINAL CONTRACT/P.O. AMOUNT:	\$	458,813.00
ADJUSTED AMOUNT FROM PREVIOUS CHANGES:	\$	580,861.00
TOTAL COST OF THIS CHANGE ORDER:	\$	21,500.00
NEW CONTRACT/P.O. AMOUNT IS:	\$	602,361.00
CONTRACT/P.O. TIME AFFECTED BY THIS CHANGE:		0 Days
ORIGINAL CONTRACT COMPLETION DATE:		6/30/12
REVISED CONTRACT COMPLETION DATE		6/30/12

IT IS UNDERSTOOD WITH THE FOLLOWING APPROVALS, THAT THE CONTRACTOR/VENDOR IS AUTHORIZED AND DIRECTED TO MAKE THE HEREIN DESCRIBED CHANGES. IT IS ALSO AGREED THAT THE TOTAL COST FOR THIS CHANGE ORDER CONSTITUTES FULL AND COMPLETE COMPENSATION FOR OBLIGATIONS REQUIRED BY THE CONTRACT/P.O. ALL OTHER PROVISIONS AND REQUIREMENTS OF THE CONTRACT/P.O. REMAIN IN FULL FORCE AND EFFECT.

CONTRACTOR/VENDOR:

SIGNATURE: Margaret D. Umphres
PRINTED NAME: MARGARET D UMPHRES
TITLE: Vice President DATE: 1/10/12
ADDRESS: 9444 Farnham St, #300
San Diego CA 92123

STAFF APPROVALS:

PROJ. MGR. _____ DATE: _____
DIV. MGR: _____ DATE: _____
CHIEF: _____ DATE: _____
ASST. GEN. MANAGER: _____ DATE: _____

DISTRICT APPROVAL:

GEN. MANAGER: _____ DATE: _____

COPIES: FILE (Orig.) CONTRACTOR/VENDOR CHIEF-ENGR CHIEF-FINANCE AGW/ENG-OPS
 ENGR. MGR. INSPECTION PROJ MGR ENGR. SECRETARY PURCHASING ACCTS PAYABLE

CHANGE ORDER LOG

Ralph W. Chapman Water Recycling Facility Upgrade Project

Project: R2096

Consultant/Contractor: MWH

Subproject: 001102

C.O.	AMOUNT	APPROVED		DESCRIPTION	TYPE C.O.
		BY	DATE		
1	\$83,301.00	Board	10/6/2010	Compensation for design of additional scope items.	Owner
2	\$38,747.00	GM	12/7/2010	Compensation for design of changes in scope items.	Owner
3	\$21,500.00	Board	2/1/2012	Compensation for start-up services during construction.	Owner
4					
5					
6					
7					
8					
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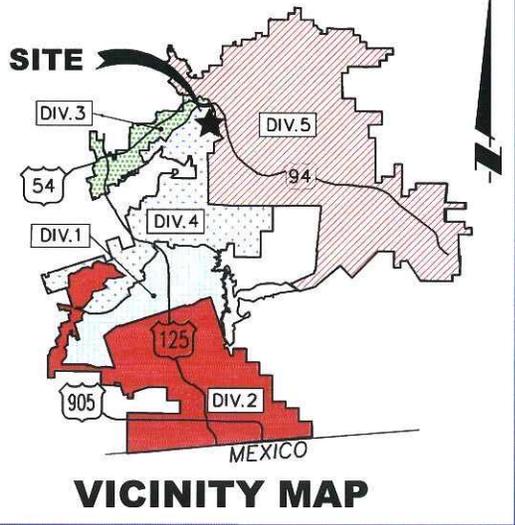
Total C.O.'s To Date: \$143,548.00 31.3%

Original Contract Amount: \$458,813.00

Current Contract Amount: \$602,361.00

Change Order Breakdown for the Month:

Month	Net C.O.\$	Limit	Authorization	C.O. %
1/12	\$143,548.00	\$2,000	Insp	0.0%
		\$10,000	PM/Sr. Engr.	0.0%
		\$20,000	DivM	0.0%
		\$25,000	Chief	0.0%
		\$35,000	AGM	0.0%
		\$50,000	GM	0.0%
		>\$50000	Board	0.0%



LEGEND

- ① SCADA SYSTEM IMPROVEMENTS
- ② NEW TURBO BLOWERS (3) FOR AERATION SYSTEM
- ③ NEW PIPING FROM BLOWERS TO AERATION BASINS
- ④ AERATION BASIN UPGRADES FOR NITROGEN REMOVAL
- ⑤ NEW PARKSON AERATION PANELS IN BASINS
- ⑥ SEDIMENTATION TANKS SKIMMER REPLACEMENT
- ⑦ NEW AIR SCOUR FACILITY & PIPING FOR TERTIARY FILTERS
- ⑧ NEW FLOATING COVER FOR FILTER WATER STORAGE TANK
- ⑨ GRIT CHAMBER ENHANCEMENT

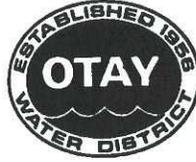


OTAY WATER DISTRICT

RALPH W. CHAPMAN WATER RECLAMATION
FACILITY UPGRADE PROJECT

CIP# R2096

EXHIBIT A



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 1, 2012
SUBMITTED BY:	Jeff Marchioro <i>JM</i> Senior Civil Engineer	PROJECT/ SUBPROJECT:	P2370-01103 DIV. NO. 3
	Ron Ripperger <i>u</i> Engineering Manager		
APPROVED BY: (Chief)	Rod Posada <i>Rod Posada</i> Chief, Engineering		
APPROVED BY: (Asst. GM):	Manny Magaña <i>M. Magaña</i> Assistant General Manager, Engineering and Operations		
SUBJECT:	Increase the Budget for CIP P2370 in the amount of \$25,000 and send an Improvement Notice to Customers Surrounding the Dorchester Reservoir related to the La Presa System Improvements Project		

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board of Directors (Board) increase the budget for CIP P2370 in the amount of \$25,000 (increase the overall CIP budget from \$1,210,000 to \$1,235,000) and authorize District staff to send an Improvement Notice to 63 customers surrounding the Dorchester Reservoir (see Exhibits A and B).

COMMITTEE ACTION: _____

Please see Attachment A.

PURPOSE:

To obtain Board approval to increase the budget for CIP P2370 in the amount of \$25,000 and to obtain Board authorization to send an Improvement Notice to 63 customers surrounding the Dorchester Reservoir.

ANALYSIS:

In February 2011, staff completed a preliminary design report that included demolition of the Dorchester Reservoir and Pump Station. The existing 1 MG Dorchester Reservoir has not been used for approximately 10 years.

The Dorchester Reservoir was originally designed to store water from the San Diego County Water Authority's Second Aqueduct (Pipeline 3) with the inherent inefficiency of "breaking head" (640 hydraulic grade line) to the Dorchester Reservoir (451 high water level). A pump station located at the Dorchester Reservoir site was then utilized to pump the water to the 590 Pressure Zone. When the Dorchester Reservoir was taken out of service, the Dorchester Pump Station was retrofitted to reduce pressure from the District's existing 640 Pressure Zone to the 590 Pressure Zone. The 590 Pressure Zone currently serves 63 customers. The existing 590 Pressure Zone will become part of the existing 640 Pressure Zone. Once the new interconnection has been constructed and demolition completed, the property may be suitable for sale.

The final design for La Presa System Improvements project, including the demolition of the Dorchester and pump station, was completed in September 2011. The Board awarded the construction project to TC Construction, Inc. on November 2, 2011. The Project includes demolition of the 1 MG steel reservoir, building, pump station, vaults, piping, and appurtenances and the construction of a new interconnection located in Dorchester Street.

TC Construction is ready to begin construction of the interconnection in Dorchester Street which will result in a 30-35 psi increase (increase the pressure from approximately 55-70 psi to 90-100 psi at the meter). The November 2, 2011 staff report previously reported a 22 psi increase (increase the pressure from approximately 70-80 to 90-100 psi at the meter) based on the previously anticipated hydraulic grade lines. However, field pressure measurements suggest that the 590 pressure zone has been running at a lower hydraulic gradeline (approximately 570 hydraulic gradeline). During field reconnaissance, only a few private reducing valves (pressure regulators) were observed from the street.

Code of Ordinance Section 23.03, enacted on October 15, 1984, requires homeowners to provide adequate safeguard measures for their water system wherever pressure regulation is necessary. However, since the 63 homes were built in the 1970's prior to the adoption of Section 23.03, these homes may or may not have pressure regulators. Staff estimates that the cost to replace an existing private pressure regulator, or add a new private pressure regulator, will be approximately \$350 per residence. Affected customers can apply to receive a rebate for up to \$350 to replace or add a new pressure regulator. The total cost for the \$350 rebate for 63 customers, plus District staff time, is estimated to be \$25,000.

The following schedule is proposed:

1. Notify affected 63 homes about the change in pressure and 1 day maximum shutdown.	February 2, 2012
2. Official time for homeowners to install private pressure regulators.	February 2 to March 2
3. To allow for some delay for private pressure regulator installation.	March 2 to March 16
4. Slowly adjust the existing Dorchester PRS valve settings and increase the pressure on the affected 63 homes.	March 16 to March 30
5. Construct the 640/590 interconnect and permanently eliminate the 590 zone.	April 2
6. Demolish the Dorchester Reservoir and PRS.	April - May

FISCAL IMPACT:



The Fiscal Year 2012 budget for CIP P2370 is \$1,210,000. Total expenditures, plus outstanding commitments and forecast, including this contract, are \$1,235,000. See Attachment B for budget detail.

Based on a review of the financial budget, the Project Manager anticipates that with a budget increase of \$25,000 the Project will be completed within the new budget amount of \$1,235,000. It is anticipated that the actual overall CIP expenditures in Fiscal Year 2012 will be well below the overall CIP budget making sufficient reserves available to fund this budget increase.

As a part of the Fiscal Year 2013 budget process, the reserve where this CIP is funded from will be assessed and will be allocated the necessary funds at that time.

STRATEGIC GOAL:

This Project supports the District's Mission statement, "To provide the best quality of water and wastewater services to the customers of Otay Water District, in a professional, effective, and efficient manner." This Project fulfills the District's Strategic Goals No. 1 - Community and Governance, and No. 5 - Potable Water, by maintaining proactive and productive relationships with the Project stakeholders and by guaranteeing that the District will provide for current and future water needs.

LEGAL IMPACT: _____

None.



General Manager

P:\WORKING\CIP P2370 - Dorchester (see P2471)\WO 300xx\Staff Reports\BD 2-01-12, Staff Report only.docx

JM/RR:jf

- Attachments: Attachment A - Committee Action
Attachment B - Budget Detail
Exhibit A - Location Map
Exhibit B - Improvement Notice to Customers



ATTACHMENT A

SUBJECT/PROJECT: P2370-001103	Increase the Budget for CIP P2370 in the amount of \$25,000 and send an Improvement Notice to Customers Surrounding the Dorchester Reservoir related to the La Presa System Improvements Project
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on January 24, 2012 and the following comments were made:

- o Staff indicated that the purpose of this item is to request that the Board increase the budget for the La Presa System Improvements Project (CIP P2370) in the amount of \$25,000 (increase the overall CIP budget from \$1,210,000 to \$1,235,000) and authorize District staff to send an Improvement Notice (See Exhibit B) to 63 customers surrounding the Dorchester Reservoir.
- o Staff stated that as part of the Improvement Project, the District plans to demolish the Dorchester Reservoir and indicated that it had not been used for approximately 10 years. The existing pump station at the Reservoir, which was retrofitted with a pressure reducing station to serve the 590 Pressure Zone including 63 customers, will also be demolished. The 590 Pressure Zone will become part of the existing 640 Pressure Zone.
- o It was indicated that the modification will result in a 30-35 psi increase (an increase in the pressure from approximately 55-70 psi to 90-100 psi at the meter).
- o Staff stated that during field reconnaissance, only a few private reducing valves (aka. pressure regulators) were observed from the street. Code of Ordinance Section 23.03, enacted in 1984, required homeowners to provide adequate safeguard measures for their water system wherever pressure regulation is necessary. However, since the 63 homes were

built in the 1970's prior to the adoption of Section 23.03, these homes may or may not have pressure regulators.

- o Staff estimates that the cost to replace an existing private pressure regulator, or add a new private pressure regulator, will be approximately \$350 per residence. It was noted that affected customers can apply to receive a rebate for up to \$350 to replace or add a new pressure regulator.
- o Staff anticipates that the total cost for the \$350 rebate for the 63 customers, plus District staff time, is estimated to be \$25,000.
- o Staff indicated that the General Manager has the authority to approve the \$25,000 cost increase. However, since 63 customers will be affected by this Project, staff decided to bring it to the Board for approval.
- o Staff believes the rebate offer to the customers will help reduce District costs and avoid exposure to liabilities as it places the responsibility on the customers to hire their own private plumbing contractor who can replace and provide a warranty on pressure regulators.
- o In response to a question by the Committee, staff indicated that a reasonable deadline will be established for the rebate offer to the 63 customers. If any of those customers have not responded by the deadline, which staff anticipates, another notice will be sent to them as a reminder.

Following the discussion, the Committee supported staffs' recommendation and presentation to the full board as a consent item.



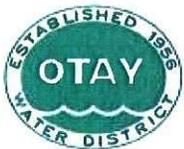
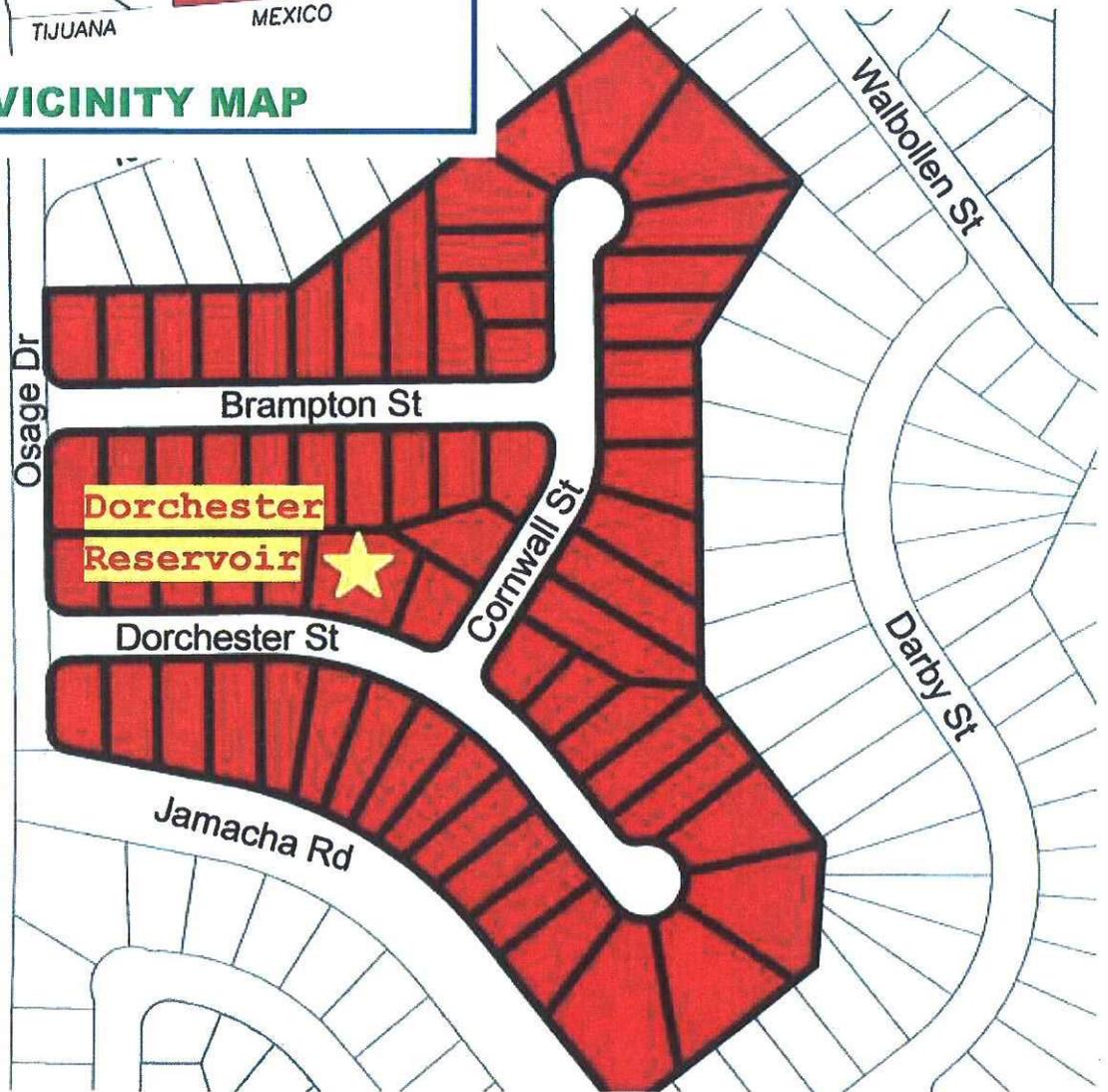
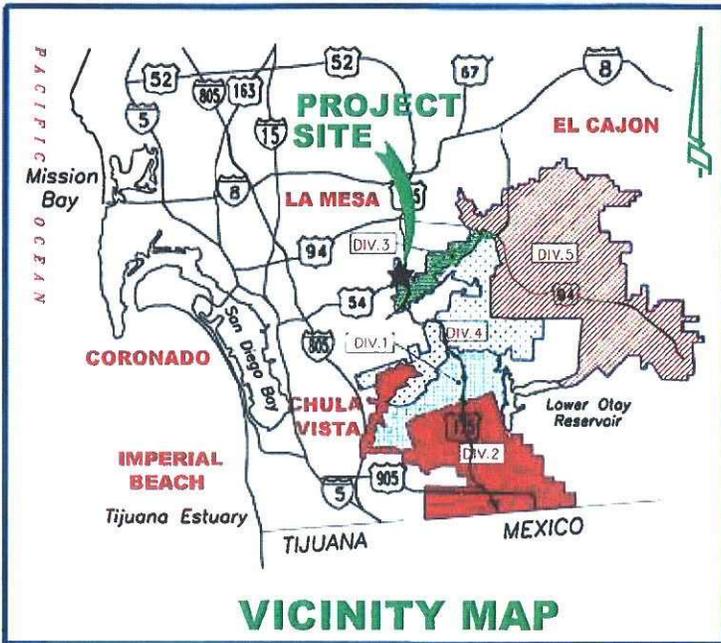
ATTACHMENT B

SUBJECT/PROJECT:	Increase the Budget for CIP P2370 in the amount of \$25,000 and send an Improvement Notice to Customers Surrounding the Dorchester Reservoir related to the La Presa System Improvements Project
P2370-001103	

Otay Water District
P2370 - La Presa System Improvements

Date Updated: January 17, 2012

<i>Budget</i>	<i>Committed</i>	<i>Expenditures</i>	<i>Outstanding Commitment & Forecast</i>	<i>Projected Final Cost</i>	<i>Vendor/Comments</i>
1,235,000					
Planning					
Labor	2,130	2,130		2,130	
Regulatory Agency Fees	50	50	-	50	PETTY CASH CUSTODIAN
Service Contracts	204	204	-	204	US BANK CORPORATE PAYMENT
Total Planning	2,384	2,384	-	2,384	
Design					
Labor	91,534	91,534		91,534	
Professional Legal Fees	724	724	-	724	STUTZ ARTIANO SHINOFF
Consultant Contracts	1,285	1,285	-	1,285	ALTA LAND SURVEYING INC
	2,148	2,148	-	2,148	V & A CONSULTING ENGINEERS
	8,550	8,550	-	8,550	ENGINEERING PARTNERS INC, THE
	900	900	-	900	MTGL INC
Construction Contracts	2,687	2,687	-	2,687	CPM PARTNERS INC
Service Contracts	304	304	-	304	SAN DIEGO UNION-TRIBUNE LLC
	175	175	-	175	SAN DIEGO DAILY TRANSCRIPT
Total Design	108,308	108,308	-	108,308	
Construction					
Labor	74,000	34,578	39,422	74,000	
Regulatory Agency Fees	1,134	1,134	-	1,134	COUNTY OF SAN DIEGO - DPW
Construction Contracts	881,096	-	881,096	881,096	TC CONSTRUCTION INC
	30,350	-	30,350	30,350	PACIFIC METER SERVICES INC
	6,801	6,801	-	6,801	SAN DIEGO GAS & ELECTRIC
	97,900	-	97,900	97,900	CALIFORNIA BANK & TRUST
Service Contracts	2,323	1,663	661	2,323	MAYER REPROGRAPHICS INC
Infrastructure Equipment &	778	778	-	778	PACIFIC PIPELINE SUPPLY
Inventory	1,357	1,357	-	1,357	
Pressure Regulators	25,000	-	25,000	25,000	REBATES
Total Construction	1,120,739	46,311	1,074,428	1,120,739	
Grand Total	1,231,431	157,003	1,074,428	1,231,431	



OTAY WATER DISTRICT
 LA PRESA SYSTEM IMPROVEMENTS
 MAP SHOWING AFFECTED CUSTOMERS
 SURROUNDING THE DORCHESTER RESERVOIR CIP P2370

EXHIBIT A

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Dorchester Reservoir Project



*Dorchester Reservoir
Scheduled for Removal*



About the Project

PROJECT NAME

Dorchester Reservoir Removal Project

LOCATION

Dorchester Street near Cornwall Street

DESCRIPTION

The Dorchester Reservoir is scheduled for removal. A small pump station and other onsite equipment will also be removed. Fencing will remain after the reservoir's removal.

REASON

The one million gallon water storage reservoir was first built in 1959 . The community is now served by a newer reservoir so the Dorchester Reservoir is no longer needed. Removal will also save ratepayers money by eliminating an ongoing maintenance cost.

TIMELINE

March.....Site Mobilization

*April.....One-Day Service
Interruption*

*May - June.....Demobilize
equipment and
clear site*

PROJECT MANAGER

Jeff Marchioro P.E.
619-670-2725
jeff.marchioro@otaywater.gov



Dedicated to Community Service

Dorchester Reservoir Project

Frequently Asked Questions

What is the district doing?

The Dorchester Reservoir is no longer needed to store water for your community. As a result, it is scheduled for removal.

What are the benefits of the project?

This action will save ratepayers money by eliminating a maintenance cost. Removal will also eliminate the visual impact the reservoir has had on your community.

How long will it take?

The district expects the project, which involves removal of the tank and other onsite facilities, will take approximate 2 to 4 months to complete.

Will my water service be affected?

A 1-day service outage is anticipated to occur in April (subject to change). Customers to be affected by the service outage include those on Dorchester, Cornwall, and Brampton Streets.

Residents will be notified before the outage will occur. Mobile water stations will also be placed in your community to provide potable water for drinking and for flushing toilets. We regret the inconvenience this will cause.

What will happen to the site?

The final disposition of the property has not been determined at this time.

What are the hours of operation?

The hours of operation will be Monday through Friday, 7:00 am to 5:00 pm.

Will there be other impacts?

Due to the reservoir's large size, removal requires large equipment as well as trucks to haul away debris. Noise and some dust will be unavoidable. District staff will work closely with the contractor to minimize impacts to residents.

What else should residents expect?

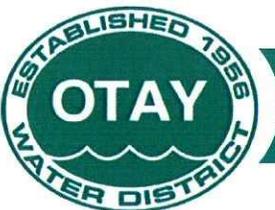
Homes in this community will experience a permanent increase in water pressure by 30 to 35 psi. If your home has a pressure regulator as required by the Otay Water District Code of Ordinance Section 23.03, you will experience no change in your home's water pressure.

How do I know if I have a pressure regulator?

Pressure regulators are commonly located near the point where water service enters your home. Your regulator may be located in the garage, near an existing water shutoff valve, or close to a water heater.

What if I do not have a regulator or if my regulator needs to be replaced?

Affected customers can apply to receive a \$350.00 rebate to add a new regulator or replace a faulty regulator.



For more information, please call Jeff Marchioro, Project Manager, at 619-670-2725.