

OTAY WATER DISTRICT

BOARD OF DIRECTORS MEETING
DISTRICT BOARDROOM

2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CALIFORNIA

WEDNESDAY
January 6, 2010
3:30 P.M.

AGENDA

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. ELECTION OF BOARD PRESIDENT

As per Chapter 2, Section 1.03.B, *Procedure for Election*, of the District's Code of Ordinances, the General Manager shall chair the proceedings for election of the President. The newly-elected President shall assume office immediately and shall chair the proceedings for the election of the Vice President and Treasurer.

4. ELECTION OF BOARD VICE PRESIDENT
5. ELECTION OF BOARD TREASURER
6. APPROVAL OF AGENDA
7. RECESS FOR A PRESENTATION TO OUTGOING BOARD PRESIDENT AND RECEPTION
8. RECONVENE OTAY WATER DISTRICT BOARD MEETING
9. 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
10. RECESS OTAY WATER DISTRICT BOARD MEETING
11. CONVENE OTAY SERVICE CORPORATION BOARD MEETING
12. ROLL CALL

13. ELECTION OF OFFICERS

- a) PRESIDENT
- b) VICE-PRESIDENT
- c) TREASURER

14. APPOINTMENT OF OFFICERS

- a) EXECUTIVE DIRECTOR
- b) CHIEF FINANCIAL OFFICER
- c) SECRETARY

15. ADJOURN OTAY SERVICE CORPORATION BOARD MEETING

16. RECONVENE OTAY WATER DISTRICT BOARD MEETING

17. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF AUGUST 5, 2009

CONSENT CALENDAR

18. 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) DECLARE EQUIPMENT AND VEHICLES AS SURPLUS TO THE DISTRICT'S NEEDS
- b) APPROVE AMENDMENTS TO SECTION 7.2.6, PURCHASES EXEMPT FROM COMPETITIVE PRICING; AND SECTION 7.2.8, BOARD AUTHORIZED PURCHASES EXCEEDING THE GENERAL MANAGER'S AUTHORITY; OF THE DISTRICT'S PURCHASING MANUAL
- c) ADOPT ORDINANCE NO. 521 TO INCLUDE WATER CONSERVATION REQUIREMENTS WITHIN SECTIONS 9 AND 27 OF THE DISTRICT'S CODE OF ORDINANCES
- d) APPROVE A SIX-MONTH BLANKET PURCHASE ORDER TO BRENNTAG PACIFIC, INC. IN AN AMOUNT NOT-TO-EXCEED \$175,000 FOR THE PURCHASE OF SODIUM HYPOCHLORITE
- e) APPROVE A CONTRACT TO FRANK AND SON PAVING, INC. IN THE AMOUNT OF \$88,884 FOR ASPHALT PAVING SERVICES TO REPAIR PAVEMENT DAMAGE CAUSED BY A RECYCLED WATER MAIN BREAK ON RANCHO DEL REY PARKWAY, CHULA VISTA
- f) APPROVE THE ISSUANCE OF A PURCHASE ORDER TO MIRAMAR TRUCK CENTER IN THE AMOUNT OF \$107,582.13 FOR THE PURCHASE OF A TEN-WHEELER DUMP TRUCK

- g) AWARD A PROFESSIONAL SERVICES AGREEMENT WITH AEGIS ENGINEERING MANAGEMENT IN AN AMOUNT NOT-TO-EXCEED \$300,000 FOR THE RECYCLED WATER PLAN CHECKING, RETROFIT, AND INSPECTION SERVICES FOR DEVELOPER PROJECTS DURING FISCAL YEARS 2010, 2011, AND 2012 (ENDING JUNE 30, 2012)
- h) AWARD AN AS-NEEDED TRAFFIC ENGINEERING SERVICES CONTRACT TO DARNELL & ASSOCIATES IN AN AMOUNT NOT-TO-EXCEED \$175,000 DURING FISCAL YEARS 2010 AND 2011 (ENDING JUNE 30, 2011)
- i) APPROVE AN AGREEMENT WITH THE JOINT WATER AGENCIES PARTNERS (SWEETWATER AUTHORITY, HELIX, AND PADRE DAM) FOR THE PREPARATION OF A NATURAL COMMUNITY CONSERVATION PLAN/HABITAT CONSERVATION PLAN; AND INCREASING THE PROJECT BUDGET BY \$604,000 FOR A TOTAL BUDGET OF \$830,000
- j) 1st QUARTER FISCAL YEAR 2010 DIRECTORS EXPENSES UPDATE (PRENDERGAST)
- k) APPROVE CREDIT CHANGE ORDER NO. 1 TO THE EXISTING CONTRACT WITH CCL CONTRACTING, INC. FOR THE CONSTRUCTION OF THE 36-INCH PIPELINE PROJECT IN THE AMOUNT OF <\$243,847> (RIPPERGER)
- l) APPROVE REIMBURSEMENT AGREEMENTS FOR THE CONVERSION OF POTABLE TO RECYCLED WATER IRRIGATION SYSTEMS WITH THREE HOMEOWNER ASSOCIATIONS: 1) TAPESTRY & MOSIAC (\$21,000); 2) AGAVA & SEGUARO (\$40,000); AND 3) ARISTATA (\$20,000) (CHARLES)

ACTION ITEMS

19. FINANCE AND ADMINISTRATION

- a) APPROVE AN AGREEMENT WITH UTILITY COST MANAGEMENT FOR THE REVIEW OF SDG&E RATES AND PAST INVOICES TO EVALUATE FOR ERRORS IN RATE APPLICATION FOR POTENTIAL REFUNDS AND FUTURE SAVINGS (DOBRAWA)
- b) ADOPT ORDINANCE NO. 522 REVISING THE DISTRICT'S WATER SHORTAGE RESPONSE PROGRAM AS CONTAINED WITHIN SECTION 39 OF THE DISTRICT'S CODE OF ORDINANCES (WILLIAM)
- c) APPROVE AN AMENDMENT TO THE EXISTING CONTRACT WITH WESTIN ENGINEERING FOR \$110,000, INCREASING ITS AMOUNT FROM \$224,280 TO \$334,280 AND INCREASING ITS SCOPE TO INCLUDE THE ASSET MANAGEMENT DATA COLLECTION EFFORT; AND

AUTHORIZE THE GENERAL MANAGER TO NEGOTIATE AND ENTER INTO A CONTRACT WITH SPATIAL WAVE FOR \$80,000 TO COVER THE COST OF SOFTWARE DEVELOPMENT AND MODIFICATION TO THE FIELD MAPPLET APPLICATION AND RELATED SOFTWARE TO ACCOMMODATE ASSET MANAGEMENT PROCESS IMPROVEMENTS (STEVENS)

20. ENGINEERING AND WATER OPERATIONS

- a) APPROVE A PROFESSIONAL SERVICES CONTRACT WITH TRAN CONSULTING ENGINEERS FOR THE SEWER SYSTEM INSPECTION AND ASSESSMENT PROJECT IN AN AMOUNT NOT-TO-EXCEED \$560,025 DURING FISCAL YEARS 2010, 2011, 2012 AND 2013 (ENDING JUNE 30, 2013) [KENNEDY]
- b) AWARD A PROFESSIONAL ENGINEERING SERVICES CONTRACT TO AECOM FOR THE RANCHO DEL REY GROUNDWATER WELL DEVELOPMENT PROJECT IN THE AMOUNT OF \$1,561,625 (PEASLEY)

21. BOARD

- a) DISCUSSION OF 2010 BOARD MEETING CALENDAR

INFORMATIONAL ITEMS

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

- a) INFORMATIONAL REPORT ON A NEWLY IMPLEMENTED PREVENTATIVE MAINTENANCE PROGRAM THAT EVALUATES THE CONDITION OF EQUIPMENT TO AVOID FAILURES (ANDERSON)
- b) FISCAL YEAR 2010 FIRST QUARTER CAPITAL IMPROVEMENT PROGRAM UPDATE REPORT (RIPPERGER)
- c) INFORMATIONAL REPORT ON THE STATUS OF THE 36-INCH PIPELINE PROJECT (RIPPERGER)

REPORTS

23. GENERAL MANAGER'S REPORT

- a) SAN DIEGO COUNTY WATER AUTHORITY UPDATE

24. DIRECTORS' REPORTS/REQUESTS

25. PRESIDENT'S REPORT

26. ADJOURNMENT

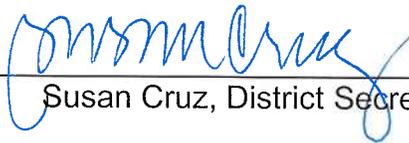
All items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the Board.

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 670-2280 at least 24 hours prior to the meeting.

Certification of Posting

I certify that on December 31, 2009, 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 December 31, 2009.



Susan Cruz, District Secretary



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Stephen Dobrawa,  Purchasing Manager	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Rom Sarno,  Chief, Administrative Services		
APPROVED BY: (Asst. GM):	German Alvarez,  Assistant General Manager, Finance and Administration		
SUBJECT:	DECLARATION OF SURPLUS, VEHICLES AND EQUIPMENT		

GENERAL MANAGER'S RECOMMENDATION:

That the Board declare the identified vehicles and equipment as surplus to the District's needs.

COMMITTEE ACTION: _____

See "Attachment A".

PURPOSE:

To present a list of vehicles and equipment and obtain Board declaration that the items identified on the list are surplus to the District's needs.

ANALYSIS:

Listed below are various vehicles and equipment that have been determined by the user departments to be of no use, obsolete (spare parts and service not available), beyond useful life and, or, not cost effective to repair or operate and therefore, surplus to the District's needs.

Vehicles Identified as Surplus

<u>Item</u>	<u>Qty</u>	<u>Description</u>	<u>Reason for Declaration</u>
1	1	1993 Ford Ranger pickup truck, unit #11, VIN 1FTCR14X9PTA52901, 150,905 miles	No longer meets District's operational specifications. No longer cost effective to maintain and operate.
2	1	1990 Ford Ranger pickup truck, unit #33, VIN 1FTCR10T4LUA54367, 95,516 miles.	Same as above.
3	1	1996 Ford F250 pickup truck, unit #90, VIN 1FTHF25G8TEA54494, 86,171 miles.	Same as above.
4	1	1994 Ford Ranger pickup truck, unit #60, VIN 1FTCR14XXRPA45337, 95,936 miles.	Same as above.
5	1	1992 GMC 2500 pickup truck, unit #108, VIN 1GDGC24XXF047114, 93,217 miles.	Same as above.
6	1	2000 Ford Explorer SUV, unit #113, VIN 1FMZU73EOYA21767, 89,392 miles.	Same as above.
7	1	2001 Ford Ranger pickup truck, unit #129, VIN 1FTYR14U61PA73331, 99,615 miles.	Same as above.
8	1	2001 Ford Ranger pickup truck, unit #130, VIN 1FTYR14U1PA73330, 94,442 miles.	Same as above.
9	1	2001 Ford Explorer SUV, unit #131, VIN 1FMZU63E81ZA59702, 102,664 miles.	Same as above.
10	1	2003 Ford Ranger pickup truck, unit #121, VIN 1FTNX20L43MB16391, 84,184 miles.	Same as above.
11	1	2003 Ford Ranger pickup truck, unit #145, VIN 1FTRZ44V43PB00060, 112,808 miles.	Same as above.

Equipment Identified as Surplus

<u>Item</u>	<u>Qty</u>	<u>Description</u>	<u>Reason for Declaration</u>
12	1	1998 Honda Forman Quad ATV, ID 3099, VIN 478TE2018WA000018, 6958 miles.	No longer meets operational specifications or requirements. No longer required.
13	1	Engine 28 EOC/OPS Emergency Stand-by Gen Set, Serial # 2016484.	No longer cost effective to maintain and operate. No longer needed.
14	1	Canon Printer, Image Runner 6000 Model, Serial #NSN05242	Same as above.

Before vehicles and equipment (where the individual acquisition cost exceeded \$5000) can be disposed of, the Board must first declare the items as surplus (ref: *Purchasing Manual, Section 12*).

The District's Purchasing Manual identifies the process for disposing of material, equipment, and supplies that have been declared surplus. Typically, items declared surplus are disposed of by sale through public auction.

FISCAL IMPACT:



The salvage value and associated gain or loss on items is not determined until their disposal. Therefore, the fiscal impact of the recommended action is not known at this time.

STRATEGIC GOAL:

This action supports the District's goal to ensure financial health through efficient operations.

LEGAL IMPACT:

None.



General Manager

ATTACHMENT A

SUBJECT/PROJECT:	DECLARATION OF SURPLUS, VEHICLES AND EQUIPMENT
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COMMITTEE ACTION:

The Finance, Administration and Communications Committee met on December 14, 2009 to review this item. The following comments were made:

- Periodically, the District surpluses vehicles and equipment that have been determined to be of no use, obsolete, beyond useful life and, or, not cost effective to repair or operate. The District last surplused equipment and vehicles approximately eight months ago.
- Staff is proposing that the board declare the items listed in the report as surplus to the District's needs.
- The vehicles and equipment will be disposed of through the process identified in the District's purchasing manual which include sale through public auction or to other government entities including Mexico.
- It was noted that if the Canon printer (listed in the report) could not be traded in, it will be scrapped.
- The committee discussed the possibility of leasing copiers. It was indicated that staff has reviewed this option, however, there is no tax benefit to the District for leasing as the District is a non-taxable entity. The District purchases the needed copiers and contracts for maintenance services. The committee asked that staff re-review the leasing option to see if it might be beneficial.
- It was also discussed that CESPT has expressed a possible interest in acquiring the back-up generator. CESPT visited the District to assess the generator and is evaluating if it will serve their requirements.
- The generator was acquired by the District in the early 1980's and it has 18,000 hours of run time. The life of a generator is determined by the availability of parts.

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

AGENDA ITEM 18b



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Stephen Dobrawa, <i>[Signature]</i> Purchasing Manager	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Rom Sarno, Chief, Administrative Services <i>[Signature]</i>		
APPROVED BY: (Asst. GM):	German Alvarez, Assistant General Manager, Finance and Administration <i>[Signature]</i>		
SUBJECT:	AMENDMENT OF THE DISTRICT'S PURCHASING MANUAL		

GENERAL MANAGER'S RECOMMENDATION:

That the Board amend the District's Purchasing Manual Section 7.2.6, Purchases Exempt from Competitive Pricing, and Section 7.2.8, Board Authorized Purchases Exceeding the General Manager's Authority, as identified in "Attachment B".

COMMITTEE ACTION: _____

See "Attachment A".

PURPOSE:

To request that the Board amend the District's Purchasing Manual as presented in "Attachment B".

ANALYSIS:

The Board of Directors establishes the operational guidelines and procedures with respect to purchasing the materials, equipment, and services necessary to conduct the District's business. These procedures are defined and published in the District's Purchasing Manual.

As a normal course of business, the manual is reviewed from time-to-time and changes to it are recommended that are intended to improve the operation of the District.

Temporary Labor

The District relies on the ability to fill temporary labor positions on an as-needed basis through direct employment or through temporary labor companies or other labor providers.

On June 7, 2006, the Code of Ordinances was amended to consolidate Policy 36, Appointment of Temporary and Contract Employees, into Policy 24, Recruitment, Selection, and Employment. The consolidation of the policies was to simplify the Board's policy related to recruitment and selection and to better reflect the District's recruitment, selection and employment process.

To make clear that the General Manager has authority to fill temporary vacant positions either directly or through temporary labor service companies and other labor providers, it is recommended that temporary labor services be added to the lists of purchases indentified within Section 7.2.6, Purchases Exempt from Competitive Pricing, and Section 7.2.8, Board Authorized Purchases Exceeding The General Manager's Authority.

Water Meters, Water Treatment Chemicals and Gasses, and Fuel

On October 7, 2009 the Board authorized the General Manager to purchase ¾"-2" water meters on an as-needed basis. The intent of this action was to allow the General Manager to purchase the water meters without regard to the limits contained in Section 2 of the Code of Ordinance. To support this intent, it is recommended that this authority be identified within the District's Purchasing Manual, Section 7.2.8, Board Authorized Purchases Exceeding The General Manager's Authority.

To maintain water quality and to meet regulatory requirements and operational demands, the District purchases various chemicals and gasses for treating potable and recycled water.

On December 2, 2009, the Board's Engineering and Operations Committee reviewed a request to award a blanket purchase order to cover the acquisition of sodium hypochlorite. During the meeting the committee recommended that the District consider adding the purchase of water treatment chemicals and gasses, to the list of purchases identified in section 7.2.8 and review

other similar purchases that may also be listed. After review, it is recommended that fuel, needed to run the District's vehicles and equipment, also be added to the list.

FISCAL IMPACT: _____

None.

STRATEGIC GOAL:

Ensure financial health through formalized policies, prudent investing, and efficient operations.

LEGAL IMPACT: _____

None.



General Manager

- Attachment A - Committee Action
- Attachment B - Strike-thru Copy, Sections 7.2.6 and 7.2.8
- Attachment C - Proposed Copy, Section 7.2.6 and 7.2.8

ATTACHMENT A

SUBJECT/PROJECT:	AMENDMENT OF THE DISTRICT'S PURCHASING MANUAL
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COMMITTEE ACTION:

The Finance, Administration and Communications Committee reviewed this item at a meeting held on December 14, 2009. The following comments were made:

- The Purchasing Manual is reviewed periodically to assure District practices are in-line with the manual and to recommend changes that will enhance District operations.
- Staff is requesting that the board approve amendments to the District's Purchasing Manual with regard to:
 - *Temporary Labor:* In June 2006, the District's Code of Ordinances was amended to consolidate Policy 36, Appointment of Temporary and Contract Employees, into Policy 24, Recruitment, Selection, and Employment, which simplified the Board's policy related to recruitment and selection and to better reflect the District's process. To make it clear that the General Manager has authority to fill temporary vacant positions either directly or through temporary labor service companies and other labor providers, it is recommended that temporary labor services be added to the list of purchases identified within Section 7.2.6, Purchases Exempt from Competitive Pricing, and Section 7.2.8, Board Authorized Purchases Exceeding the General Manager's Authority.
 - *Water Meters, Water Treatment Chemicals and Gasses, and Fuel:* In October 2009 the Board authorized the General Manager to purchase ¾" to 2" water meters on an as-needed basis. The intent was to allow the General Manager to authorize the purchase of water meters above his authority level of \$50,000 when needed. To support this intent, it is recommended that this authority be identified within the District's Purchasing Manual, Section 7.2.8, Board Authorized Purchases Exceeding the General Manager's Authority.

Additionally, the Engineering and Operations Committee reviewed a request to award a blanket purchase order to cover the acquisition of sodium hypochlorite at its meeting held on December 2, 2009. During the meeting, the committee recommended that the District consider adding the purchase of water treatment chemicals and gasses to the list of purchase identified in Section 7.2.8 and review other similar purchases that may also be listed. Staff is proposing that fuel purchases also be added to Section 7.2.8. The District can purchase up to 12,000 gallons of fuel at a time. If the cost of gas exceeds \$4/gallon, then the cost for the purchase could exceed the General Manager's authority. As these purchases are required for the daily operation of the District, it would be appropriate to add them to Section 7.2.8 of the District's Purchasing Manual.

- The committee suggested that purchases authorized beyond the General Manager's authority be reported within the General Manager's monthly report to the board, similar to the reporting of change orders.

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

| 6. Water Meters

(Sections 7.2.6 through 7.2.8 of the District's Purchasing Manual)

7.2.6 Purchases Exempt from Competitive Pricing:

The following contract/purchases are exempt from competitive pricing:

1. With Federal, State or Local Agencies,
2. Temporary labor services to fill time-limited employment needs,
3. For the sole purpose of obtaining expert witness for litigation, and
4. That are for legal defense, legal advice, or legal services.

7.2.7 Emergency Purchases:

During times when the General Manager has declared an emergency, where the immediate acquisition of materials, goods, and services is required, the purchase of needed materials, goods, and services shall be made in accordance with California state statutes and per the District's Code of Ordinances.

7.2.8 Board Authorized Purchases Exceeding the General Manager's Authority:

- a. The General Manager or his/her Designee is authorized to exceed his/her delegated purchasing authority and purchase the following goods and services without regard to limits on the amount of delegated authority under Section 2 of the Code of Ordinance:

1. Gas and electric utility for the operation of the District
2. Water
3. Temporary labor services
4. Chemicals and gasses for the treatment of potable and recycled water.
5. Fuel, gasoline and diesel
6. Water Meters



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	William E. Granger, <i>WG</i> Water Conservation Manager	W.O./G.F. NO:	N/A DIV. NO. All
APPROVED BY: (Chief)	Rom Sarno, Chief of Administrative Services <i>[Signature]</i>		
APPROVED BY: (Asst. GM):	German Alvarez, Assistant General Manager, Finance & Administration <i>[Signature]</i>		
SUBJECT:	Adopt Ordinance 521, Amending Sections 9 and 27 of the District's Code of Ordinances		

GENERAL MANAGER'S RECOMMENDATION:

That the Board adopt Ordinance 521 to include water conservation requirements within Sections 9 and 27 of the District's Code of Ordinances.

COMMITTEE ACTION: _____

Please see "Attachment A".

PURPOSE:

To adopt Ordinance 521, which updates the District's current ordinance, as outlined in the red-lined versions of Section 9 and 27 of the District's Code of Ordinances.

ANALYSIS:

Section 9 of the District's Code of Ordinances currently lists requirements for annexations and Section 27 of the Code lists requirements and limitations for obtaining water service. As a condition of future annexations, the San Diego County Water Authority (Water Authority) and the Metropolitan Water District of Southern California (Metropolitan) require that the District include language within its Code of Ordinances that addresses water efficiency requirements for new developments and provide Metropolitan an annual report for six years following the approved annexation. For that reason, both Section 9 and 27 of the District's Code of Ordinances are being revised.

Several of the new requirements will become state law within five years, however, this new Code change will further increase

water efficiency in new developments. For example, by 2014, the state of California is requiring that only high efficiency toilets be sold. High Efficiency Clothes Washers are also expected to be the only type of clothes washer sold in the next few years. The Federal Department of Energy is currently working on an implementation schedule now that the 9th Circuit Court of Appeals has allowed California to have a stricter standard than the federal government for clothes washers sold in the state. In addition, the draft water efficient landscape requirements are similar to the Landscape Water Conservation Ordinance adopted by the City of Chula Vista and County of San Diego. Lastly, smart irrigation controllers are expected to be the state standard in 2012 because of the passage of AB 1881.

Draft Section 27 also includes a requirement that two irrigation schedules be posted: an establishment and post establishment schedule. This requirement will help better educate new homeowners. In the past, new homeowners would move into a home and would often fail to adjust their watering schedules after the initial establishment period. Many of these new homeowners were also unsure where their irrigation controller was located. Several other agencies with high rates of new growth such as Southern Nevada Water Agency have a similar requirement.

Combined, these new requirements will closely parallel the target water savings of 20% aspired for in the EPA Water Sense New Home Specifications and help the District achieve a 20% reduction in its baseline per capita potable water use by 2020 as required by the Governor's signing of SBX7 7 in November of 2009.

FISCAL IMPACT:



None at this time.

STRATEGIC GOAL:

Relates directly to objective 1.2.1.1 "Promote and encourage adoption of conservation practices for new construction within District service territory."

LEGAL IMPACT:

None at this time.

Mark Watton

General Manager

Attachment A - Committee Action Report

Attachment B - Ordinance 521

Attachment C - Clean copy of proposed Sections 9 & 27

ATTACHMENT A

SUBJECT/PROJECT:	Adopt Ordinance 521, Amending Sections 9 and 27 of the District's Code of Ordinances
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COMMITTEE ACTION:

The Finance, Administration and Communications Committee reviewed this item at a meeting held on December 14, 2009. The following comments were made:

- Staff is proposing amendments to Sections 9 and 27 of the District's Code of Ordinances updating the requirements for annexations (Section 9) and requirements and limitations for obtaining water service (Section 27).
- As a condition of future annexations the San Diego County Water Authority (CWA) and Metropolitan Water District of Southern California (MWD) requires that the District include language within its Code of Ordinances that addresses water efficiency requirements for new developments and provide MWD an annual report for six years following the approved annexation. This initiative is also within the District's Strategic Plan.
- The amendments include the requirement that only high efficiency fixtures and appliance such as, ultra low-flush toilets, high efficiency washing machines, etc. may be installed for all new residential and commercial and any redevelopments. It is expected that these requirements will also become state law within five years. It was discussed that the indoor requirements of Section 27 are very similar to the City of Chula Vista's recently adopted *Green Building Standards* implemented in November 2009.
- The amendments will also require that only "Smart" irrigation controllers and low-water use plants may be used. It was noted that the water efficient landscape requirements are similar to the Landscape Water Conservation Ordinance adopted by the City of Chula Vista and County of San Diego.
- Section 27 will also include a requirement that the Developer post two irrigation schedules for new

homeowners: a schedule for the establishment of a new landscape and a schedule for post establishment. It is felt that there is a need to better educate homeowners on watering requirements for new landscapes versus established landscapes and to adjust their watering schedules as appropriate.

- The code changes will further increase water efficiency in new developments and will help ensure that the District achieves a 20% reduction in its baseline per capita potable water use by 2020 as required by SBX7 7. It was noted that the District appears to be ahead of schedule in meeting the target of achieving a 20% reduction in potable water use by 2020.

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

ORDINANCE NO. 521

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
OTAY WATER DISTRICT AMENDING THE CODE OF
ORDINANCES SECTION 9, ANNEXATIONS AND DETACHMENTS
AND SECTION 27, REQUIREMENTS AND LIMITATIONS FOR
OBTAINING WATER SERVICE

BE IT ORDAINED by the Board of Directors of Otay Water
District that Section 9 and Section 27 shall be amended as
follows (strike-thru copies attached):

CHAPTER 6 MISCELLANEOUS ADMINISTRATION PROCEDURES

SECTION 9 ANNEXATIONS AND DETACHMENTS

9.01 REQUIREMENT OF ANNEXATION FOR SERVICE

Except as provided elsewhere in this Code, whenever utility
service is requested for land outside the boundaries of an
improvement district, the land to be serviced must first be
annexed to an improvement district(s). If the land is located
outside the boundaries of the District, the land must also be
annexed to the District.

9.02 ANNEXATIONS TO OR DETACHMENTS FROM IMPROVEMENT DISTRICTS

An owner or owners of land within the District desiring to
annex to or detach land from an improvement district within the
District must file a petition for such proceeding with the
District. Annexation proceedings shall be conducted pursuant to
Chapter I (commencing with Section 72670) of Part 11, Division
20 of the California Water Code. Detachment or exclusion
proceedings shall be conducted pursuant to Part 8.5 (commencing
with Section 72080) of Division 20 of the California Water Code.

9.03 ANNEXATIONS TO OR DETACHMENTS FROM THE DISTRICT THROUGH
LAFCO

An owner or owners desiring to annex land to or to detach
land from the District may either (i) file a petition directly
with the Local Agency Formation Commission (LAFCO) for the
annexation or detachment or (ii) request the District to file
the petition with LAFCO for such annexation or detachment. Any
such proceeding for annexation or detachment, which is deemed a
change of organization or reorganization pursuant to the
Cortese-Knox Local Government Reorganization Act of 1985, shall
be initiated, conducted and completed pursuant to Title 6,
Division 1 (commencing with Section 56000) of the California
Government Code.

If the land proposed to be annexed is outside the boundaries of the territory served by the Metropolitan Water District of Southern California and the territory served by the San Diego County Water Authority, and no local sources of water are available to serve such land, the District will require that the land be annexed to those entities as well.

9.04 FEES AND CHARGES FOR ANNEXATIONS OR DETACHMENTS

A petitioner requesting an annexation to or detachment from the District or an improvement district within the District shall pay the following applicable fees and charges:

SECTION 27 **REQUIREMENTS AND LIMITATIONS FOR OBTAINING WATER SERVICE**

27.01 REQUIREMENT FOR WATER/SEWER PERMIT AND PAYMENT OF FEES, CHARGES, AND DEPOSITS

A. Requirement for Water/Sewer Permits. Water meters shall not be installed nor water service furnished until an application, in the form of a water/sewer permit, has been executed by the customer at the District office.

B. Requirement for Payment of Fees, Charges and Deposits. Payment of all required fees, charges and deposits shall be made by the customer at the time the water meter is purchased. A customer requesting water service shall pay the fees, charges, and deposits as set forth in Section 28 of this Code.

C. Requirement for a Building Permit. A customer requesting permanent water service shall be required to present a valid building permit for the property issued by the appropriate governmental agency, except that a building permit is not required by a customer requesting permanent water service to: 1) install and maintain landscaping prior to the construction of a building; 2) perform mass grading operations; or 3) to satisfy conditions imposed by other government agencies, including a single meter for grading for four lots or less which are part of the same parcel map. Government agencies shall be exempt from the requirement of presenting a valid building permit.

D. Requirement for a Service Lateral. The customer requesting water service shall either have an existing service lateral or purchase a new lateral installation at the time of the meter purchase.

E. Commercial Parcels - 5,000 square feet or Larger Irrigated Landscape. When a customer requests water service on a parcel of land with irrigated landscape equal to 5,000 square feet or more, a separate meter will be required for irrigation purposes on the site.

F. Reclaimed Water Service Areas. In areas designated as reclaimed water service areas, the customer shall be required to install a separate reclaimed water service lateral and meter to supply irrigation to the parcel.

G. Second Meter For Indoor Use. Any customer who obtained a single meter prior to October 17, 1990, a second meter for indoor use may be obtained, without paying water capacity fees, San Diego County Water Authority fees and applicable zone charges on the second meter, if the following criteria are met:

1. The additional meter is solely for the purpose of isolating current domestic (indoor) water use from that used for outdoor landscaping. The additional meter shall be on a separate lateral.

2. All costs of on-site plumbing changes, including approved back-flow prevention devices, will be the responsibility of the customer.

3. The customer acknowledges that adding a second meter will result in a second water bill and associated monthly system fee.

4. The customer will be required to pay all fees and charges prior to meter installation.

27.02 SIZE OF WATER METER

A water meter shall be sized to ensure that the maximum demand (in gallons per minute) will not exceed 80% of the manufacturer's recommended maximum flow rate, as shown in Section 27.03. In no case shall the water meter size be less than $\frac{3}{4}$ -inch. The size of the water meter and service lateral required for water service shall be determined by the General Manager as follows:

A. Detached Single-Family Residential Dwelling Unit. The customer may submit calculated maximum demand (in gallons per minute), provided that maximum demand must be more than twenty four (24) gallons per minute.

B. Apartments, Condominiums, Mobile Home Parks and other Multiple Family Residential Dwelling Units with Individual Meters. The calculated maximum demand shall be per Section 27.02A.

C. Business, Commercial, Industrial, Apartments, Condominiums, Mobile Home Parks and other Multiple-Family Residential Dwelling Units. The customer shall submit building plans signed by a licensed building architect. The plans shall list the number of fixture units, the parcel size (in acres),

and the calculated maximum demand (in gallons per minute) to be placed on each water meter.

D. Irrigation. The customer shall submit irrigation plans signed by a licensed landscape architect. The plans shall indicate the calculated maximum demand (in gallons per minute) to be placed on each water meter and the total area to be irrigated (in square feet). The plans must also be in compliance with the requirements of Section 27.05.

E. Other. In the case of other types of service not included above, the customer shall submit information as requested by the General Manager. Any customer may request and purchase a separate meter to isolate landscaping from indoor use.

F. Requirement for Multiple Meters. The General Manager may require multiple meters when it is in the best interest of the District.

27.03 MANUFACTURERS RECOMMENDED MAXIMUM FLOW RATE FOR DISTRICT METERS

Customers are cautioned to control the rates of flow of water through District meters. Operation of a meter at flows in excess of the manufacturer's recommendations will cause severe damage to operating parts. Rated capacities for meters used in this District are as follows:

ORDINARY METERS

<u>Meter Size</u> <u>In Inches</u>	<u>Manufacturer's Recommended</u> <u>Maximum Rate in U. S. Gallons</u> <u>per Minute</u>
3/4	30
1	50
1-1/2	100
2	160
3	530
4	1350
6	2700
8	3500
10	6500

COMPOUND METERS

(Multi-family, Apartments etc.)

2	285
3	480
4	750
6	1700

27.04 USE OF SUBMETERS FOR RESALE OR DISTRIBUTION OF WATER

Owners or operators of mobile home parks, apartments, condominium complexes, industrial complexes and land used for agricultural purposes may resell water furnished by the District through the use of a submetering system under the following conditions: (1) owners and operators shall comply with State law (California Code of Regulations Section 4090) prohibiting any surcharge on the water rate; (2) the water system on the private property side of the master meter, including the submeters, shall be solely the responsibility of the owner or operator; and (3) the owner or operator shall clearly delineate on the bill that any cost associated with the submeters is a cost imposed by the property owner or operator and not by Otay Water District.

27.05 CONSERVATION AND LOCAL SUPPLY USE REQUIREMENTS

The requirements below apply to all new residential and commercial developments or redevelopments. The landscape requirements also apply to any re-landscaping that is subject to review by the District, the County of San Diego, City of Chula Vista or the City of San Diego.

1. Indoor Fixtures and Appliances. All water fixtures and appliances installed, including the ones in the following list, must be high-efficiency:

- Toilets and urinals
- Faucets
- Showerheads
- Clothes Washers
- Dishwashers

"High-efficiency" means fixtures and appliances that comply with the most efficient specifications under the EPA WaterSense® or Energy Star programs,¹ as in effect at the time installation commences.

2. Landscape requirements. Only "Smart" irrigation controllers² may be installed and only low-water use plants may be used in non recreational landscapes. All landscapes must also be designed and managed consistent with requirements of the local agency within which the property is located, be it the

¹ Certified EPA WaterSense products, and Energy Star products, are at least 20% more efficient than the applicable federal standards.

² Smart Irrigation Controller means a controller that uses real time, soil moisture or weather data to automatically adjust irrigation run-times. Furthermore, to qualify as a Smart Irrigation Controller, the device must be certified by the Irrigation Association and/or the EPA WaterSense program.

County of San Diego, the City of Chula Vista or the City of San Diego.

a. Installed smart irrigation controllers shall be properly programmed/scheduled according to the manufacturer's instructions and/or site specific conditions based on soil type, plant type, irrigation type, weather and/or reference evapotranspiration data.

b. Two irrigation schedules shall be prepared, one for the initial establishment period of three months or until summer hardened, and one for the established landscape, which incorporates the specific water needs of the plants and turf throughout the calendar year. The schedules shall be continuously available on site to those responsible for the landscape maintenance and posted at the smart controller.

c. Any Covenants, Conditions, and Restrictions (CC&Rs) pertaining to a new subdivision/development shall not limit or prohibit the use and maintenance of low water use plant materials and the use of artificial turf, and shall require property owners to design and maintain their landscapes consistent with the applicable City and County's regulations.

d. Dedicated irrigation meters shall be installed in:

- All parks and common areas with 5,000 square feet or more of irrigated landscape
- Commercial sites with 5,000 square feet or more of irrigated landscape

e. In compliance with Section 23.03 of this Code of Ordinance, pressure regulators must be installed when and where appropriate to maximize the life expectancy and efficiency of the irrigation system.

5. New commercial developments must install separate, dual-distribution systems for potable and recycled water.

6. The requirements of this Section shall not be interpreted in any way to limit the owner's obligation to comply with any other applicable federal, state, or local laws or regulations.

PASSED, APPROVED AND ADOPTED by the Board of Directors of
the Otay Water District at a regular meeting duly held this 6th
day of January, 2010, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

President

ATTEST:

District Secretary

CHAPTER 6 MISCELLANEOUS ADMINISTRATION PROCEDURES

SECTION 9 ANNEXATIONS AND DETACHMENTS

9.01 REQUIREMENT OF ANNEXATION FOR SERVICE

Except as provided elsewhere in this Code, whenever utility service is requested for land outside the boundaries of an improvement district, the land to be serviced must first be annexed to an improvement district(s). If the land is located outside the boundaries of the District, the land must also be annexed to the District.

9.02 ANNEXATIONS TO OR DETACHMENTS FROM IMPROVEMENT DISTRICTS

An owner or owners of land within the District desiring to annex to or detach land from an improvement district within the District must file a petition for such proceeding with the District. Annexation proceedings shall be ~~conducted~~ ~~conducted~~ pursuant to Chapter I (commencing with Section 72670) of Part 11, Division 20 of the California Water Code. Detachment or exclusion proceedings shall be conducted pursuant ~~pursuant~~ to Part 8.5 (commencing with Section 72080) of Division ~~Division~~ 20 of the California Water Code.

9.03 ANNEXATIONS TO OR DETACHMENTS FROM THE DISTRICT THROUGH LAFCO

An owner or owners desiring to annex land to or to detach land from the District may either (i) file a petition directly with the Local Agency Formation Commission (LAFCO) for the annexation or detachment or (ii) request the District to file the petition with LAFCO for such annexation or detachment. Any such proceeding for annexation or detachment, which is deemed a change of organization or reorganization pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, shall be initiated, conducted and completed pursuant to Title 6, Division 1 (commencing with Section 56000) of the California Government Code.

If the land proposed to be annexed is outside the boundaries of the territory served by the Metropolitan Water District of Southern California and the territory served by the San Diego County Water Authority, and no local sources of water are available to serve such land, the District will require that the land be annexed to those entities as well.

9.04 FEEES AND CHARGES FOR ANNEXATIONS OR DETACHMENTS

A petitioner requesting an annexation to or detachment from the District or an improvement district within the District~~District~~ shall pay the following applicable fees and charges:

- A. Administrative Processing Fees
1. District Processing Fee. A District processing fee of \$500 shall be paid to the District for each annexation or detachment proceeding, regardless of the number of parcels involved, provided all parcels are included in one proceeding. The \$500 fee shall constitute the "base rate" on March 3, 1997. The base rate shall be adjusted annually for fluctuations in the Consumer Price Index (Urban Wage Earners and Clerical Workers - Los Angeles) and subsequent cost-of-living adjustment (COLA).
 3. Additional Processing Fees or Charges. The petitioner shall pay all processing fees and charges due LAFCO, the State Board of Equalization and any other applicable government agency.
 4. Concurrent Annexations to or Detachments from the District and an Existing Improvement District. No additional processing costs or fees will be charged to a petitioner for an annexation to or detachment from an existing improvement district when the proceeding is part of an annexation to or detachment from the District.
 5. Payment of Fees and Charges. The District Processing Fees and charges shall be paid to the District at the time the petition for such proceeding is filed. Where a petition is filed with LAFCO, the District shall notify LAFCO that payment of all required fees and charges to the ~~District~~ District shall be a condition for District approval of the annexation or detachment.
- B. Annexation Fees for Annexations to Water Improvement Districts. The ~~annexation~~ annexation fee of \$1,411 shall constitute the "base rate" on March 13, 2006 (effective July 1, 2006). The base rate shall be adjusted quarterly for fluctuations in construction costs, as measured by the Engineering News Record Construction Cost Index for the Los Angeles Region. The ENR Construction Cost Index of 8552.3 (as of March 13, 2006) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost Index from the base index for the period from March 13, 2006 to the date of payment.
1. No water annexation fee shall be required for existing and future agricultural water service

furnished by the District under the COMMERCIAL AGRICULTURAL category of Section 25 of the Code.

2. Non-permanent irrigation water service furnished by the District under Section 30 of the Code shall be available without payment of a water annexation fee.
3. Open Space to be Annexed. Open space lands shall not be excluded from annexations of land to a water improvement district.
4. Water Meter Type Exclusions. Annexation fees shall be collected on all water meters sold except for temporary water meters, water tank truck meters, nonpermanent irrigation water meters and outside user meters, all as defined elsewhere in this Code.
5. Effective Date. Annexation fees shall be collected on all lands annexing to a water improvement district on or after March 5, 1997.
6. Basis for Determination. For annexations of land to a water improvement district within the District, the petitioner shall pay an annexation fee. The fee shall be paid at the time of water meter purchase.

For permanent water meters, except for commercial agricultural meters, the annexation fee shall be determined on the basis of the demand to be placed on the District-wide water system. The fee will be determined on the basis of the size of the water meter required, as set forth in Section 27 of the Code. The fee shall be determined by multiplying the demand factor for the meter size, as set forth in Section 28 of the Code, by the annexation fee of \$1,411 per EDU.

C. Annexation Fees for Annexations to Sewer Improvement Districts

1. Improvement District Annexation. All annexation for sewer service shall be into Improvement District No. 18 on or after December 16, 1998.
2. Open Space to be Annexed. Open space lands shall not be excluded from annexations of land to a sewer improvement district.
3. Effective Date. Annexation fees shall be collected on all lands annexing to a sewer

improvement district on or after December 16, 1998.

4. Basis for Determination. For annexations of land to a sewer improvement district within the District, the petitioner shall pay an annexation fee. The fee shall be determined on the basis of the demand to be placed on the District sewer system. The fee shall be paid at the time of sewer service connection request or General Manager's approval of plans, whichever occurs earlier. The extent of the demand will be determined on the basis of each equivalent dwelling unit (EDU) of service which is to be connected to the District sewer system. The number of EDUs prescribed in Section 53 of the Code shall be the basis for computation of the amount of the annexation fee. The fee will be determined by multiplying the number of EDUs by the annexation fee of \$3,819 per EDU.

The annexation fee of \$3,819 shall constitute the "base rate" on December 16, 1998. The base rate shall be adjusted quarterly for fluctuations in construction costs as measured by the Engineering News Record Construction Cost Index for the Los Angeles Region. The ENR Construction Cost Index of 6,859.45 (as of November 9, 1998) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost Index from the base index for the period from November 9, 1998 to the date of payment.

D. Detachment Fees

For each detachment of land from an improvement district, the petitioner shall pay such fees as the General Manager determines are appropriate for the detachment. Determinations shall be made by the General Manager on a case-by-case basis.

9.05 TAXATION OF PROPERTY AFTER ANNEXATION TO IMPROVEMENT DISTRICT

Where property is annexed by a petitioner, other than a tax-exempt agency, the property in the annexed area shall be subject to taxation after the annexation thereof for the purposes of the improvement district, including the payment of principal and interest on bonds and other obligations of the improvement district authorized and outstanding at the time of the annexation. The Board of Directors shall provide as a condition of the

annexation that the annexed area shall be subject to taxation as if the property had always been a part of the improvement district.

9.06 OTHER CONDITIONS OF ANNEXATION

By annexing to the District the owners and representatives of the annexing land agree, on behalf of themselves and all future owners and occupants of the annexed lands, to comply with all laws, statutes, policies, plans, conditions and requirements applicable to the services provided by the District to such lands, including without limitation any conservation or local supply use requirements.

SECTION 27

REQUIREMENTS AND LIMITATIONS FOR
OBTAINING WATER SERVICE

27.01

REQUIREMENT FOR WATER/SEWER PERMIT AND
PAYMENT OF FEES, CHARGES, AND DEPOSITS

A. Requirement for Water/Sewer Permits. Water meters shall not be installed nor water service furnished until an application, in the form of a water/sewer permit, has been executed by the customer at the District office.

B. Requirement for Payment of Fees, Charges and Deposits. Payment of all required fees, charges and deposits shall be made by the customer at the time the water meter is purchased. A customer requesting water service shall pay the fees, charges, and deposits as set forth in Section 28 of this Code.

C. Requirement for a Building Permit. A customer requesting permanent water service shall be required to present a valid building permit for the property issued by the appropriate governmental agency, except that a building permit is not required by a customer requesting permanent water service to: 1) install and maintain landscaping prior to the construction of a building; 2) perform mass grading operations; or 3) to satisfy conditions imposed by other government agencies, including a single meter for grading for four lots or less which are part of the same parcel map. Government agencies shall be exempt from the requirement of presenting a valid building permit.

D. Requirement for a Service Lateral. The customer requesting water service shall either have an existing service lateral or purchase a new lateral installation at the time of the meter purchase.

E. Commercial Parcels - 5,000 square feet or Larger Irrigated Landscape. When a customer requests water service on a parcel of land with irrigated landscape equal to 5,000 square feet or more, a separate meter will be required for irrigation purposes on the site.

F. Reclaimed Water Service Areas. In areas designated as reclaimed water service areas, the customer shall be required to install a separate reclaimed water service lateral and meter to supply irrigation to the parcel.

G. Second Meter For Indoor Use. Any customer who obtained a single meter prior to October 17, 1990, a second meter for indoor use may be obtained, without paying water capacity fees, San Diego County Water Authority fees and applicable zone charges on the second meter, if the following criteria are met:

1. The additional meter is solely for the purpose of isolating current domestic (indoor) water use from that used for outdoor landscaping. The additional meter shall be on a separate lateral.

2. All costs of on-site plumbing changes, including approved back-flow prevention devices, will be the responsibility of the customer.

3. The customer acknowledges that adding a second meter will result in a second water bill and associated monthly system fee.

~~The resulting landscape dedicated meter will be subject to monthly water allotments under the District's Water Efficient Landscape Irrigation Program pursuant to Section 25 of the Code.~~

4. The customer will be required to pay all fees and charges prior to meter installation.~~The customer acknowledges that adding a second meter will result in a second water bill and associated monthly system fee.~~

~~5. The customer will be required to pay all fees and charges prior to meter installation.~~

27.02

SIZE OF WATER METER

A water meter shall be sized to ~~insure~~ ensure that the maximum demand (in gallons per minute) will ~~be no more than~~ not exceed 80% of the manufacturer's recommended maximum flow rate, as shown in Section 27.03. In no case shall the water meter size be less than ¾-inch. The size of the water meter and service lateral required for water service shall be determined by the General Manager as follows:

A. Detached Single-Family Residential Dwelling Unit. The customer may submit calculated maximum demand (in gallons per minute), provided that maximum demand must be more than twenty four (24) gallons per minute.

B. Apartments, Condominiums, Mobile Home Parks and other Multiple Family Residential Dwelling Units with Individual Meters. The calculated maximum demand shall be per Section 27.02A.

C. Business, Commercial, Industrial, Apartments, Condominiums, Mobile Home Parks and other Multiple-Family Residential Dwelling Units. The customer shall submit building plans signed by a licensed building architect. The plans shall list the number of fixture units, the parcel size (in acres), and the calculated maximum demand (in gallons per minute) to be placed on each water meter.

D. Irrigation. The customer shall submit irrigation plans signed by a licensed landscape architect. The plans shall indicate the calculated maximum demand (in gallons per minute) to be placed on each water meter and the total area to be irrigated (in square feet). The plans must also be in compliance with the requirements of Section 27.05.

E. Other. In the case of other types of service not included above, the customer shall submit information as requested by the General Manager. Any customer may request and purchase a separate meter to isolate landscaping from indoor use.

F. Requirement for Multiple Meters. The General Manager may require multiple meters when it is in the best interest of the District.

27.03 MANUFACTURERS RECOMMENDED MAXIMUM FLOW RATE FOR DISTRICT METERS

Customers are cautioned to control the rates of flow of water through District meters. Operation of a meter at flows in excess of the manufacturer's recommendations will cause severe damage to operating parts. Rated capacities for meters used in this District are as follows:

ORDINARY METERS

<u>Meter Size Recommended</u> <u>In Inches</u>	<u>Manufacturer's</u> <u>Maximum Rate in U. S. Gallons</u> <u>per Minute</u>
3/4	30
1	50
1-1/2	100
2	160
3	530
4	1350
6	2700
8	3500
10	6500

COMPOUND METERS

(Multi-family, ~~Appartments~~ Apartments etc.)

2	285
3	480
4	750
6	1700

27.04 USE OF SUBMETERS FOR RESALE OR DISTRIBUTION OF WATER

Owners or operators of mobile home parks, apartments, condominium complexes, industrial complexes and land used for agricultural purposes may resell water furnished by the District through the use of a submetering system under the following conditions: (1) owners and operators shall comply with State law (California Code of Regulations Section 4090) prohibiting any surcharge on the water rate; (2) the water system on the private property side of the master meter, including the submeters, shall be solely the responsibility of the owner or operator; and (3) the owner or operator shall clearly delineate on the bill that any cost associated with the submeters is a cost imposed by the property owner or operator and not by Otay Water District.

27.05 CONSERVATION AND LOCAL SUPPLY USE REQUIREMENTS

The requirements below apply to all new residential and commercial developments or redevelopments. The landscape requirements also apply to any re-landscaping that is subject to review by the District, the County of San Diego, City of Chula Vista or the City of San Diego.

1. Indoor Fixtures and Appliances. All water ~~operated~~ fixtures and appliances installed, including the ones in the following list, must be high-efficiency:

- Toilets and urinals
- Faucets
- Showerheads
- Clothes Washers
- Dishwashers

"High-efficiency" means fixtures and appliances that comply with the most efficient specifications under the EPA WaterSense® or Energy Star programs,¹ as in effect at the time installation commences.

2. Landscape requirements. Only "Smart" irrigation controllers² may be installed and only low-water use plants may be used ~~for~~ in non recreational landscapes. All landscapes must also be designed and managed consistent with requirements of the local agency within which the

¹ Certified EPA WaterSense products, and Energy Star products, are at least 20% more efficient than the applicable federal standards.

² Smart Irrigation Controller means a controller that uses real time, soil moisture or weather data to automatically adjust irrigation run-times. Furthermore, to qualify as a Smart Irrigation Controller, the device must be certified by the Irrigation Association and/or the EPA WaterSense program.

property is located, be it the County of San Diego, the City of Chula Vista or the City of San Diego.

a. Installed smart irrigation controllers shall be properly programmed/scheduled according to the manufacturer's instructions and/or site specific conditions based on soil type, plant type, irrigation type, weather and/or reference evapotranspiration data.

b. Two irrigation schedules shall be prepared, one for the initial establishment period of three months or until summer hardened, and one for the established landscape, which incorporates the specific water needs of the plants and turf throughout the calendar year. The schedules shall be continuously available on site to those responsible for the landscape maintenance and posted at the smart controller.

c. Any Covenants, Conditions, and Restrictions (CC&Rs) pertaining to a new subdivision/development shall not limit or prohibit the use and maintenance of low water use plant materials and the use of artificial turf, and shall require property owners to design and maintain their landscapes consistent with the applicable City and County's regulations.

d. Dedicated irrigation meters shall be installed in:

- All parks and common areas with 5,000 square feet or more of irrigated landscape
- Commercial sites with 5,000 square feet or more of irrigated landscape

e. In compliance with Section 23.03 of this Code of Ordinance, pressure regulators must be installed when and where appropriate to maximize the life expectancy and efficiency of the irrigation system.

5. New commercial developments must install separate, dual-distribution systems for potable and recycled water.

6. The requirements of this Section shall not be interpreted in any way to limit the owner's obligation to comply with any other applicable federal, state, or local laws or regulations.

CHAPTER 6 MISCELLANEOUS ADMINISTRATION PROCEDURES

SECTION 9 ANNEXATIONS AND DETACHMENTS9.01 REQUIREMENT OF ANNEXATION FOR SERVICE

Except as provided elsewhere in this Code, whenever utility service is requested for land outside the boundaries of an improvement district, the land to be serviced must first be annexed to an improvement district(s). If the land is located outside the boundaries of the District, the land must also be annexed to the District.

9.02 ANNEXATIONS TO OR DETACHMENTS FROM IMPROVEMENT DISTRICTS

An owner or owners of land within the District desiring to annex to or detach land from an improvement district within the District must file a petition for such proceeding with the District. Annexation proceedings shall be conducted pursuant to Chapter I (commencing with Section 72670) of Part 11, Division 20 of the California Water Code. Detachment or exclusion proceedings shall be conducted pursuant to Part 8.5 (commencing with Section 72080) of Division 20 of the California Water Code.

9.03 ANNEXATIONS TO OR DETACHMENTS FROM THE DISTRICT THROUGH LAFCO

An owner or owners desiring to annex land to or to detach land from the District may either (i) file a petition directly with the Local Agency Formation Commission (LAFCO) for the annexation or detachment or (ii) request the District to file the petition with LAFCO for such annexation or detachment. Any such proceeding for annexation or detachment, which is deemed a change of organization or reorganization pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, shall be initiated, conducted and completed pursuant to Title 6, Division 1 (commencing with Section 56000) of the California Government Code.

If the land proposed to be annexed is outside the boundaries of the territory served by the Metropolitan Water District of Southern California and the territory served by the San Diego County Water Authority, and no local sources of water are available to serve such land, the District will require that the land be annexed to those entities as well.

9.04 FEES AND CHARGES FOR ANNEXATIONS OR DETACHMENTS

A petitioner requesting an annexation to or detachment from the District or an improvement district within the District shall pay the following applicable fees and charges:

A. Administrative Processing Fees

1. District Processing Fee. A District processing fee of \$500 shall be paid to the District for each annexation or detachment proceeding, regardless of the number of parcels involved, provided all parcels are included in one proceeding. The \$500 fee shall constitute the "base rate" on March 3, 1997. The base rate shall be adjusted annually for fluctuations in the Consumer Price Index (Urban Wage Earners and Clerical Workers - Los Angeles) and subsequent cost-of-living adjustment (COLA).
 2. Additional Processing Fees or Charges. The petitioner shall pay all processing fees and charges due LAFCO, the State Board of Equalization and any other applicable government agency.
 3. Concurrent Annexations to or Detachments from the District and an Existing Improvement District. No additional processing costs or fees will be charged to a petitioner for an annexation to or detachment from an existing improvement district when the proceeding is part of an annexation to or detachment from the District.
 4. Payment of Fees and Charges. The District Processing Fees and charges shall be paid to the District at the time the petition for such proceeding is filed. Where a petition is filed with LAFCO, the District shall notify LAFCO that payment of all required fees and charges to the District shall be a condition for District approval of the annexation or detachment.
- B. Annexation Fees for Annexations to Water Improvement Districts. The annexation fee of \$1,411 shall constitute the "base rate" on March 13, 2006 (effective July 1, 2006). The base rate shall be adjusted quarterly for fluctuations in construction costs, as measured by the Engineering News Record Construction Cost Index for the Los Angeles Region. The ENR Construction Cost Index of 8552.3 (as of March 13, 2006) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost

Index from the base index for the period from March 13, 2006 to the date of payment.

1. No water annexation fee shall be required for existing and future agricultural water service furnished by the District under the COMMERCIAL AGRICULTURAL category of Section 25 of the Code.
2. Non-permanent irrigation water service furnished by the District under Section 30 of the Code shall be available without payment of a water annexation fee.
3. Open Space to be Annexed. Open space lands shall not be excluded from annexations of land to a water improvement district.
4. Water Meter Type Exclusions. Annexation fees shall be collected on all water meters sold except for temporary water meters, water tank truck meters, nonpermanent irrigation water meters and outside user meters, all as defined elsewhere in this Code.
5. Effective Date. Annexation fees shall be collected on all lands annexing to a water improvement district on or after March 5, 1997.
6. Basis for Determination. For annexations of land to a water improvement district within the District, the petitioner shall pay an annexation fee. The fee shall be paid at the time of water meter purchase.

For permanent water meters, except for commercial agricultural meters, the annexation fee shall be determined on the basis of the demand to be placed on the District-wide water system. The fee will be determined on the basis of the size of the water meter required, as set forth in Section 27 of the Code. The fee shall be determined by multiplying the demand factor for the meter size, as set forth in Section 28 of the Code, by the annexation fee of \$1,411 per EDU.

- C. Annexation Fees for Annexations to Sewer Improvement Districts
 1. Improvement District Annexation. All annexation for sewer service shall be into Improvement District No. 18 on or after December 16, 1998.

2. Open Space to be Annexed. Open space lands shall not be excluded from annexations of land to a sewer improvement district.
3. Effective Date. Annexation fees shall be collected on all lands annexing to a sewer improvement district on or after December 16, 1998.
4. Basis for Determination. For annexations of land to a sewer improvement district within the District, the petitioner shall pay an annexation fee. The fee shall be determined on the basis of the demand to be placed on the District sewer system. The fee shall be paid at the time of sewer service connection request or General Manager's approval of plans, whichever occurs earlier. The extent of the demand will be determined on the basis of each equivalent dwelling unit (EDU) of service which is to be connected to the District sewer system. The number of EDUs prescribed in Section 53 of the Code shall be the basis for computation of the amount of the annexation fee. The fee will be determined by multiplying the number of EDUs by the annexation fee of \$3,819 per EDU.

The annexation fee of \$3,819 shall constitute the "base rate" on December 16, 1998. The base rate shall be adjusted quarterly for fluctuations in construction costs as measured by the Engineering News Record Construction Cost Index for the Los Angeles Region. The ENR Construction Cost Index of 6,859.45 (as of November 9, 1998) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost Index from the base index for the period from November 9, 1998 to the date of payment.

D. Detachment Fees

For each detachment of land from an improvement district, the petitioner shall pay such fees as the General Manager determines are appropriate for the detachment. Determinations shall be made by the General Manager on a case-by-case basis.

9.05 TAXATION OF PROPERTY AFTER ANNEXATION TO IMPROVEMENT DISTRICT

Where property is annexed by a petitioner, other than a tax-exempt agency, the property in the annexed area

shall be subject to taxation after the annexation thereof for the purposes of the improvement district, including the payment of principal and interest on bonds and other obligations of the improvement district authorized and outstanding at the time of the annexation. The Board of Directors shall provide as a condition of the annexation that the annexed area shall be subject to taxation as if the property had always been a part of the improvement district.

9.06 OTHER CONDITIONS OF ANNEXATION

By annexing to the District the owners and representatives of the annexing land agree, on behalf of themselves and all future owners and occupants of the annexed lands, to comply with all laws, statutes, policies, plans, conditions and requirements applicable to the services provided by the District to such lands, including without limitation any conservation or local supply use requirements.

SECTION 27 REQUIREMENTS AND LIMITATIONS FOR OBTAINING
WATER SERVICE

27.01 REQUIREMENT FOR WATER/SEWER PERMIT AND PAYMENT OF
FEES, CHARGES, AND DEPOSITS

A. Requirement for Water/Sewer Permits. Water meters shall not be installed nor water service furnished until an application, in the form of a water/sewer permit, has been executed by the customer at the District office.

B. Requirement for Payment of Fees, Charges and Deposits. Payment of all required fees, charges and deposits shall be made by the customer at the time the water meter is purchased. A customer requesting water service shall pay the fees, charges, and deposits as set forth in Section 28 of this Code.

C. Requirement for a Building Permit. A customer requesting permanent water service shall be required to present a valid building permit for the property issued by the appropriate governmental agency, except that a building permit is not required by a customer requesting permanent water service to: 1) install and maintain landscaping prior to the construction of a building; 2) perform mass grading operations; or 3) to satisfy conditions imposed by other government agencies, including a single meter for grading for four lots or less which are part of the same parcel map. Government agencies shall be exempt from the requirement of presenting a valid building permit.

D. Requirement for a Service Lateral. The customer requesting water service shall either have an existing service lateral or purchase a new lateral installation at the time of the meter purchase.

E. Commercial Parcels - 5,000 square feet or Larger Irrigated Landscape. When a customer requests water service on a parcel of land with irrigated landscape equal to 5,000 square feet or more, a separate meter will be required for irrigation purposes on the site.

F. Reclaimed Water Service Areas. In areas designated as reclaimed water service areas, the customer shall be required to install a separate reclaimed water service lateral and meter to supply irrigation to the parcel.

G. Second Meter For Indoor Use. Any customer who obtained a single meter prior to October 17, 1990, a second meter for indoor use may be obtained, without paying water capacity fees, San Diego County Water Authority fees and applicable zone charges on the second meter, if the following criteria are met:

1. The additional meter is solely for the purpose of isolating current domestic (indoor) water use from that used for outdoor landscaping. The additional meter shall be on a separate lateral.

2. All costs of on-site plumbing changes, including approved back-flow prevention devices, will be the responsibility of the customer.

3. The customer acknowledges that adding a second meter will result in a second water bill and associated monthly system fee.

4. The customer will be required to pay all fees and charges prior to meter installation.

27.02 SIZE OF WATER METER

A water meter shall be sized to ensure that the maximum demand (in gallons per minute) will not exceed 80% of the manufacturer's recommended maximum flow rate, as shown in Section 27.03. In no case shall the water meter size be less than ¾-inch. The size of the water meter and service lateral required for water service shall be determined by the General Manager as follows:

A. Detached Single-Family Residential Dwelling Unit. The customer may submit calculated maximum demand (in gallons per minute), provided that maximum demand must be more than twenty four (24) gallons per minute.

B. Apartments, Condominiums, Mobile Home Parks and other Multiple Family Residential Dwelling Units with Individual Meters. The calculated maximum demand shall be per Section 27.02A.

C. Business, Commercial, Industrial, Apartments, Condominiums, Mobile Home Parks and other Multiple-Family Residential Dwelling Units. The customer shall submit building plans signed by a licensed building architect. The plans shall list the number of fixture units, the parcel size (in acres), and the calculated maximum demand (in gallons per minute) to be placed on each water meter.

D. Irrigation. The customer shall submit irrigation plans signed by a licensed landscape architect. The plans shall indicate the calculated maximum demand (in gallons per minute) to be placed on each water meter and the total area to be irrigated (in square feet). The plans must also be in compliance with the requirements of Section 27.05.

E. Other. In the case of other types of service not included above, the customer shall submit information as

requested by the General Manager. Any customer may request and purchase a separate meter to isolate landscaping from indoor use.

F. Requirement for Multiple Meters. The General Manager may require multiple meters when it is in the best interest of the District.

27.03 MANUFACTURERS RECOMMENDED MAXIMUM FLOW RATE FOR DISTRICT METERS

Customers are cautioned to control the rates of flow of water through District meters. Operation of a meter at flows in excess of the manufacturer's recommendations will cause severe damage to operating parts. Rated capacities for meters used in this District are as follows:

ORDINARY METERS

<u>Meter Size</u> <u>Recommended</u> <u>In Inches</u>	<u>Manufacturer's</u> <u>Maximum Rate in U. S. Gallons</u> <u>per Minute</u>
3/4	30
1	50
1-1/2	100
2	160
3	530
4	1350
6	2700
8	3500
10	6500

COMPOUND METERS
(Multi-family, Apartments etc.)

2	285
3	480
4	750
6	1700

27.04 USE OF SUBMETERS FOR RESALE OR DISTRIBUTION OF WATER

Owners or operators of mobile home parks, apartments, condominium complexes, industrial complexes and land used for agricultural purposes may resell water furnished by the District through the use of a submetering system under the following conditions: (1) owners and operators shall comply with State law (California Code of Regulations Section 4090) prohibiting any surcharge on the water rate; (2) the water system on the private property side of the master meter, including the submeters, shall be solely the responsibility of the owner or operator; and (3) the owner

or operator shall clearly delineate on the bill that any cost associated with the submeters is a cost imposed by the property owner or operator and not by Otay Water District.

27.05 CONSERVATION AND LOCAL SUPPLY USE REQUIREMENTS

The requirements below apply to all new residential and commercial developments or redevelopments. The landscape requirements also apply to any re-landscaping that is subject to review by the District, the County of San Diego, City of Chula Vista or the City of San Diego.

1. Indoor Fixtures and Appliances. All water fixtures and appliances installed, including the ones in the following list, must be high-efficiency:

- Toilets and urinals
- Faucets
- Showerheads
- Clothes Washers
- Dishwashers

"High-efficiency" means fixtures and appliances that comply with the most efficient specifications under the EPA WaterSense® or Energy Star programs,¹ as in effect at the time installation commences.

2. Landscape requirements. Only "Smart" irrigation controllers² may be installed and only low-water use plants may be used in non recreational landscapes. All landscapes must also be designed and managed consistent with requirements of the local agency within which the property is located, be it the County of San Diego, the City of Chula Vista or the City of San Diego.

a. Installed smart irrigation controllers shall be properly programmed/scheduled according to the manufacturer's instructions and/or site specific conditions based on soil type, plant type, irrigation type, weather and/or reference evapotranspiration data.

¹ Certified EPA WaterSense products, and Energy Star products, are at least 20% more efficient than the applicable federal standards.

² Smart Irrigation Controller means a controller that uses real time, soil moisture or weather data to automatically adjust irrigation run-times. Furthermore, to qualify as a Smart Irrigation Controller, the device must be certified by the Irrigation Association and/or the EPA WaterSense program.

b. Two irrigation schedules shall be prepared, one for the initial establishment period of three months or until summer hardened, and one for the established landscape, which incorporates the specific water needs of the plants and turf throughout the calendar year. The schedules shall be continuously available on site to those responsible for the landscape maintenance and posted at the smart controller.

c. Any Covenants, Conditions, and Restrictions (CC&Rs) pertaining to a new subdivision/development shall not limit or prohibit the use and maintenance of low water use plant materials and the use of artificial turf, and shall require property owners to design and maintain their landscapes consistent with the applicable City and County's regulations.

d. Dedicated irrigation meters shall be installed in:

- All parks and common areas with 5,000 square feet or more of irrigated landscape
- Commercial sites with 5,000 square feet or more of irrigated landscape

e. In compliance with Section 23.03 of this Code of Ordinance, pressure regulators must be installed when and where appropriate to maximize the life expectancy and efficiency of the irrigation system.

3. New commercial developments must install separate, dual-distribution systems for potable and recycled water.

4. The requirements of this Section shall not be interpreted in any way to limit the owner's obligation to comply with any other applicable federal, state, or local laws or regulations.

Issuing blanket purchases:

- Aids in minimizing time and cost of obtaining needed materials and supplies
- Aids in minimizing inconvenience to customers
- Stabilizes prices for a defined period of time
- Reduces staff costs associated with processing multiple requisitions and purchase orders
- Allows field supervisors and staff to focus on more critical tasks

As required by District's purchasing policy, quotes were solicited and received as follows:

<u>Vendor</u>	<u>Per Unit Bid</u>
Brenntag Pacific Inc, 4545 Ardine Street, South Gate, CA 90280	\$1.14/gallon
Abcana Industries, 545 West Bradley Avenue, El Cajon, CA 92020	\$1.24/gallon
Olin Chlor Alkali Products, 27475 Ynez Road Suite 116, Temecula, CA 92591	\$1.68/gallon

The District receives approximately four deliveries per week at various locations, averaging 1,100 gallons per delivery. The maximum delivery received at any one time is 3,000 gallons. The highest delivery quantities are made through the summer/hot weather months.

FISCAL IMPACT:

RKB

Funds for this blanket purchase order are included in the FY 2010 budget; \$225,000 for potable water and \$162,000 for recycled water.

STRATEGIC GOAL:

This blanket purchase order is in alignment with the Strategic Goal to "Optimize the District's Operating Efficiency" by streamlining the purchasing process of goods procured on a regular basis.

LEGAL IMPACT:

None

[Signature]
General Manager



ATTACHMENT A

SUBJECT/PROJECT:	Blanket Purchase Order Award, Water Treatment Chemicals
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on December 2, 2009 and the following comments were made:

- Staff is requesting that the Board authorize the issuance of a six-month blanket purchase order for \$175,000 to Brenntag Pacific, Inc. for the purchase of sodium hypochlorite that will be used to treat (disinfect) potable and recycled water. Staff indicated that the blanket purchase order would commence in January 2010 and end on June 30, 2010.
- Staff indicated that blanket purchase orders for the purchase of sodium hypochlorite are processed weekly, and that authorization of a blanket purchase order would help streamline the process and enhance efficiency.
- Staff indicated that three proposals were received from: 1) Brenntag Pacific Inc.; 2) Abcana Industries; and 3) Olin Chlor Alkali Products. Staff stated that Brenntag Pacific Inc. quoted an offer (\$1.14/gallon) that would provide a significant amount of savings to the District.
- To get an idea of the approximate amount of savings for the District, the Committee inquired about how much the previous supplier charged per gallon. Staff indicated that the previous supplier was Abcana Industries who charged \$1.32/gallon. The proposed vendor (Brenntag Pacific Inc.) will charge \$1.14/gallon, which would save the District about \$.18/gallon.

- The Committee inquired about the amount of supply purchased per order. Staff indicated that the District purchases between 450-3,000 gallons on a quarterly basis, depending on the District's needs.
- The Committee indicated, as sodium hypochlorite is an ongoing purchase for daily operations, that they felt it was a purchase that the General Manager should have the authority to authorize. Staff indicated that it could be integrated into the purchasing manual similar to how payment for utility bills are authorized.

Following the discussion, the Committee supported staffs' recommendation to the full Board on the consent calendar.



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Frank Anderson, Utility Services Manager	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Pedro Porras,  Chief, Water Operations		
APPROVED BY: (Asst. GM):	Manny Magaña,  Assistant General Manager, Engineering and Water Operations		
SUBJECT:	Award Contract to Frank & Son Paving for Asphalt Paving Services		

GENERAL MANAGER'S RECOMMENDATION:

That the Board award a contract to Frank and Son Paving, Inc., 1019 3rd Ave., Chula Vista, CA, in the amount of \$88,884.00 for asphalt paving services to repair approximately 28,000 sq. ft. of pavement damage to Rancho Del Rey Parkway, Chula Vista, caused by a recycled water main break.

COMMITTEE ACTION: _____

Please see Attachment "A".

PURPOSE:

To present bid results and request that the Board award a contract to Frank and Son Paving, Inc. in the amount of \$88,884.00 for asphalt paving services to repair approximately 28,000 sq. ft. of road damage caused by a recycled water main break.

ANALYSIS:

On Monday, August 24, 2009 a recycled water line ruptured, causing major pavement damage to Rancho Del Rey Parkway in Chula Vista. This rupture resulted in damage to approximately 28,000 square feet of asphalt paving.

Typical repairs to the road surface include the removal and re-installation of asphalt paving and potentially road-base material, striping, and re-installation of traffic signal loops.

In accordance with public purchasing requirements, a notice was published and bids were solicited for this work. Thirteen contractors attended a mandatory pre-bid meeting held on November 5, 2009. On November 19, 2009 a public bid opening was held and eight bids were submitted as follows:

Contractor	Bid
Frank and Son Paving, Inc., Chula Vista, CA	\$88,884.00
Kirk Paving, El Cajon, CA	\$93,493.00
Stammerrama General Engineering, El Cajon, CA	\$97,270.00
Koch-Armstrong, Lakeside, CA	\$99,500.00
Angus Asphalt, Santee, CA	\$101,000.00
Ramona Paving, Ramona, CA	\$127,000.00
International Paving Service, Menton, CA	\$108,800.00
J.D. Paving, San Marcos, CA	\$133,578.72

Included in the bid is all labor, materials, traffic control, traffic loop replacement, striping, sealing, scarification, soils testing, and permitting required to remove and replace the identified asphalt to the specifications required by the City of Chula Vista. The District's insurance carrier, SDRMA, assigned an adjuster to this claim and has coordinated with the District and the City of Chula Vista to identify the requirements to repair the damage to the City's property.

Frank and Son Paving has performed other similar paving projects for the District and the District's experience with them has been positive. The District is confident that they will be able to perform the required work.

FISCAL IMPACT:

RUB

Based on the bids submitted, the cost of repair to the pavement is \$88,884.00. Anticipated return from insurance is 100 percent of the paving cost, less the District's \$2,000.00 deductible.

The FY 09 Operating Budget for miscellaneous insurance expenses is \$ 3,300.00. To date, nothing has been charged to this budget and there will be sufficient funds to cover the expected \$2,000.00 insurance deductible.

STRATEGIC GOAL:

Strategy: "Stewards of Public Infrastructure"

Goal: "Conduct the best practice preventative maintenance activities."

LEGAL IMPACT:

None.



General Manager

Attachment "A", Committee Action



ATTACHMENT A

SUBJECT/PROJECT:	Award Contract to Frank & Son Paving for Asphalt Paving Services
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on December 2, 2009 and the following comments were made:

- Staff is requesting that the Board award a contract to Frank and Son Paving, Inc. in the amount of \$88,884.00 for asphalt paving services to repair approximately 28,000 sq. ft. of pavement damage located at Rancho Del Rey Parkway, Chula Vista.
- Staff indicated that on August 24, 2009 a recycled water line ruptured, causing major pavement damage to Rancho Del Rey Parkway in Chula Vista.
- Staff solicited bids for the repair of the pavement, and on November 19, 2009 eight bids were received from: 1) Frank and Son Paving, Inc. (\$88,884.00); 2) Kirk Paving (\$93,493.00); 3) Stammerrama General Engineering (\$97,270.00); 4) Koch-Armstrong (\$99,500.00); 5) Angus Asphalt (\$101,000.00); 6) Ramona Paving (\$127,000.00); 7) International Paving Service (\$108,800.00); and 8) J.D. Paving (\$133,578.72).
- Staff is recommending that the paving contract be awarded to Frank and Son Paving, as the lowest responsive bidder, for \$88,884.00.
- Staff indicated that Frank and Son Paving, Inc. has provided the District similar services in the past and the District's experience with them has been very positive.
- Staff indicated that the District's insurance company will cover the full cost of the repair (\$88,884.00), less the District a \$2,000 deductible.
- The Committee inquired about the District's current as-needed asphalt paving services. Staff indicated that the current provider is Kirk Paving.

Following the discussion, the Committee supported staffs' recommendation to the full Board on the consent calendar.



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Frank Anderson, Utility Services Manager	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Pedro Porras, <i>[Signature]</i> Chief, Water Operations		
APPROVED BY: (Asst. GM):	Manny Magaña, <i>[Signature]</i> Assistant General Manager, Engineering and Water Operations		
SUBJECT:	Approval to Purchase Ten-Wheeler Dump Truck		

GENERAL MANAGER'S RECOMMENDATION:

That the Board authorize the General Manager to issue a purchase order to Miramar Truck Center in the amount of \$107,582.13 for the purchase of one ten-wheeler dump truck.

COMMITTEE ACTION: _____

See Attachment "A".

PURPOSE:

To obtain Board authorization to purchase a ten-yard dump truck that is APCD/CARB compliant while designating two older non-compliant ten-wheeler dump trucks for surplus auction.

ANALYSIS:

On December 6, 2000 the Board authorized the General Manager to initiate CIP P2366 that provided funding for the repair, retrofit or replacement of District Assets in order to comply with APCD air standard requirements. The retrofit or replacement of give gen-set engines has been completed with some of the fleet engines being modified with devices to scrub the Diesel exhaust; however, two existing District ten-wheeler dump truck

vehicles still require replacement due to their age and/or engine exhaust displacement.

Based on system operation evaluations of work-flow history by Construction/Maintenance supervision and management, it is recommended that one new ten-wheeler dump truck be purchased and the two older units be designated for surplus auction.

It should be noted that these two existing dump trucks are 24 and 15 years old with over 163,000 and 148,000 miles on them, respectively. This replacement activity will noticeably reduce the District's Diesel emissions output.

FISCAL IMPACT:

RUB

The purchase of this vehicle will cost \$107,582.13 which will be charged against the APCD Engine Replacements and Retrofits CIP P2366.

The total budget for the CIP P2366 APCD Engine Replacements and Retrofits is \$2,834,000. Current expenditures and encumbrances for the CIP, including the vehicle purchased under this request if approved, are \$1,754,647.

It is expected that the funding from this CIP account would be sufficient to complete these projects.

Expenditure Summary:

APCD Engine Replacement CIP 2366 Budget:		\$ 2,834,000
Expenditures and Encumbrances to Date:	\$1,647,065	
Proposed Vehicle Purchase:	\$107,582.13	
Total Expenditures and Encumbrances:		\$1,754,647.13
Projected Balance of APCD Engine Replacement CIP 2366 Budget:		\$ 1,079,353.00

Purchase and balance total confirmed by Frank Anderson P.P.

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 10 Yard Dump Truck
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on December 2, 2009 and the following comments were made:

- Staff is requesting that the Board authorize the General Manager to issue a purchase order to Miramar Truck Center in the amount of \$107,582.13 for the purchase of one ten-wheeler dump truck.
- Staff indicated that the new dump truck will replace two existing dump trucks which no longer meet emission requirements. The new dump truck is APCD/CARB compliant and would reduce the District's diesel emissions output.
- It was indicated that the two existing dump trucks will be surplus and disposed through public auction.
- The Committee inquired about the cost savings versus the need for two dump trucks. Staff indicated that an evaluation was performed and it was felt that there is a need for only one dump truck. There would also be cost savings from a maintenance standpoint in that only one dump truck would require maintenance versus two.
- It was discussed that if the use of an additional dump truck was needed, that the District has a mutual aid agreement with the Sweetwater Authority and the Helix Water District wherein the District would pay an hourly rate to borrow their equipment.

Following the discussion, the Committee supported staffs' recommendation to the full Board on the consent calendar.



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	David Charles <i>DC</i> Public Services Manager	PROJECT NO./	P1438- DIV. NO. 1, 2, SUB-PROJECT: 010000 & 4
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:	Award of a Professional Services Contract for Recycled Water Plan Checking, Retrofit, and Inspection Services for Developer Projects		

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board of Directors (Board) authorizes the General Manager to enter into a Professional Services agreement with AEGIS Engineering Management (AEGIS), in an amount not-to-exceed \$300,000 for the recycled water plan checking, retrofit, and inspection services for developer projects during Fiscal Years 2010, 2011, and 2012 (ending June 30, 2012) (see attached Exhibit A for project locations.)

COMMITTEE ACTION: _____

Please see Attachment A.

PURPOSE:

That the Board authorizes the General Manager to enter into a Professional Services agreement with AEGIS for recycled water plan checking, retrofit, and inspection services for developer projects, in an amount not-to-exceed \$300,000 during Fiscal Years 2010, 2011, and 2012.

ANALYSIS:

The District requires the services of a consulting firm to provide professional services for recycled water plan checking, retrofit, and inspection services for developer projects. The Consultant assists

the Public Services Division of the Engineering Department in processing and performing plan check review and approvals for developer recycled irrigation projects. These services are also required to perform inspections and participate in "coverage, as well as cross-connection tests," as mandated by the Department of Health Services. Last year the District reviewed and processed thirty (30) plan checks with twenty (20) new inspection recycled projects that consisted of approximately ten (10) sheets of on-site irrigation and landscaping plans per project totaling approximately \$155,000. For the remainder of Fiscal Year 2010 through the end of Fiscal Year 2012, it is anticipated that the Consultant will review and inspect approximately sixty (60) projects. Over the same period, staff estimates the cost to perform this responsibility to be approximately \$300,000.

On October 27, 2009, the District solicited recycled water plan checking, retrofit, and inspection services for developer projects by placing an advertisement on the District's website and several other publications, including the Union Tribune and San Diego Daily Transcript.

On November 2, 2009, the District issued a formal Request for Proposal (RFP) to ten (10) consultants:

- AEGIS
- Dudek
- Harris & Associates
- Lee and Ro
- Malcolm Pirnie
- MTGL, Inc.
- PBS&J
- Snipes-Dye
- Trevet, Inc.
- Vanir Construction Management

Only one (1) proposal was received. The other nine (9) declined to propose. A letter of interest was received by all ten (10) consultants. Staff contacted the nine (9) consultants and inquired as to why a proposal was not received. Six (6) consultants had indicated that since the inspection services required cross-connection speciality, they had no technical resources qualified to perform the inspections on these projects and the scope was out of their area of expertise. Two (2) consultants indicated that it was a business decision and wanted to focus on other opportunities for future RFP's that were in-line with their business goals. One (1)

consultant indicated that they did not have enough time to complete a detailed proposal, and therefore, chose not to submit.

After holding an interview with AEGIS, staff concluded that AEGIS would be the most qualified consultant to provide the District with plan checking and inspection services.

In accordance with District Policy 21, staff evaluated the proposal submitted by AEGIS. The AEGIS project manager and AEGIS team members listed in the proposal are all American Water Works Association (AWWA) certified cross-connection control specialists and have vast plan checking and inspection experience. In addition, some of the members were formerly employed by AECOM, who has been currently providing the District with professional services since November 2005 and decided to form their own company. From our experience, services provided by AECOM and staff have been very good, thorough, and professional and the District has had no issues or problems with either of the team members and AECOM. AECOM chose not to submit a proposal or letter of interest because they felt that they have been providing services for numerous years and wanted to give other companies an opportunity.

In addition with the District's plan to optimize recycled water use to internal irrigation for multi-family dwellings, having experienced AEGIS' cross-connection specialists on-board is crucial in obtaining proper inspection, thus avoiding any misconnections. Staff also evaluated estimate for plan checking and inspection provided by AEGIS. The project manager rate compared to our current contract with AECOM's staff is less (see table below.)

AEGIS		AECOM	
<i>Description</i>	<i>Rate</i>	<i>Description</i>	<i>Rate</i>
Project Manager	\$135	Project Manager	\$158
Assistant Engineer	\$115	Assistant Engineer	\$ 90
Admin. Specialist	\$ 80	Admin. Specialist	\$ 95

Staff estimated that an average of \$6,500 will be needed per project to perform the plan check review and inspections. The District recuperates these funds by billing directly to the developer. Staff recommends the award of a two and a half-year professional services contract to AEGIS in an overall amount not-to-exceed \$300,000.

FISCAL IMPACT:



Plan check and inspection services are an on-going effort provided by the District to developers. This particular expense is completely

funded by developer deposits and does not affect the District's operating budget.

STRATEGIC GOAL:

This project supports the District's Mission Statement, "To provide the best quality of water and wastewater service to the customers of the Otay Water District, in a professional, effective, and efficient manner," and the Otay Strategic Goal "to develop and improve infrastructure for increased recycled water use."

LEGAL IMPACT: _____

None.



General Manager

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DC/RP:mlc

Attachments: Attachment A
Exhibit A

QA/QC Approval:

Name: Tom Juppenger

Date: 11-20-09



ATTACHMENT A

SUBJECT/PROJECT: P1438-010000	Award of a Professional Services Contract for Recycled Water Plan Checking, Retrofit, and Inspection Services for Developer Projects
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COMMITTEE ACTION:

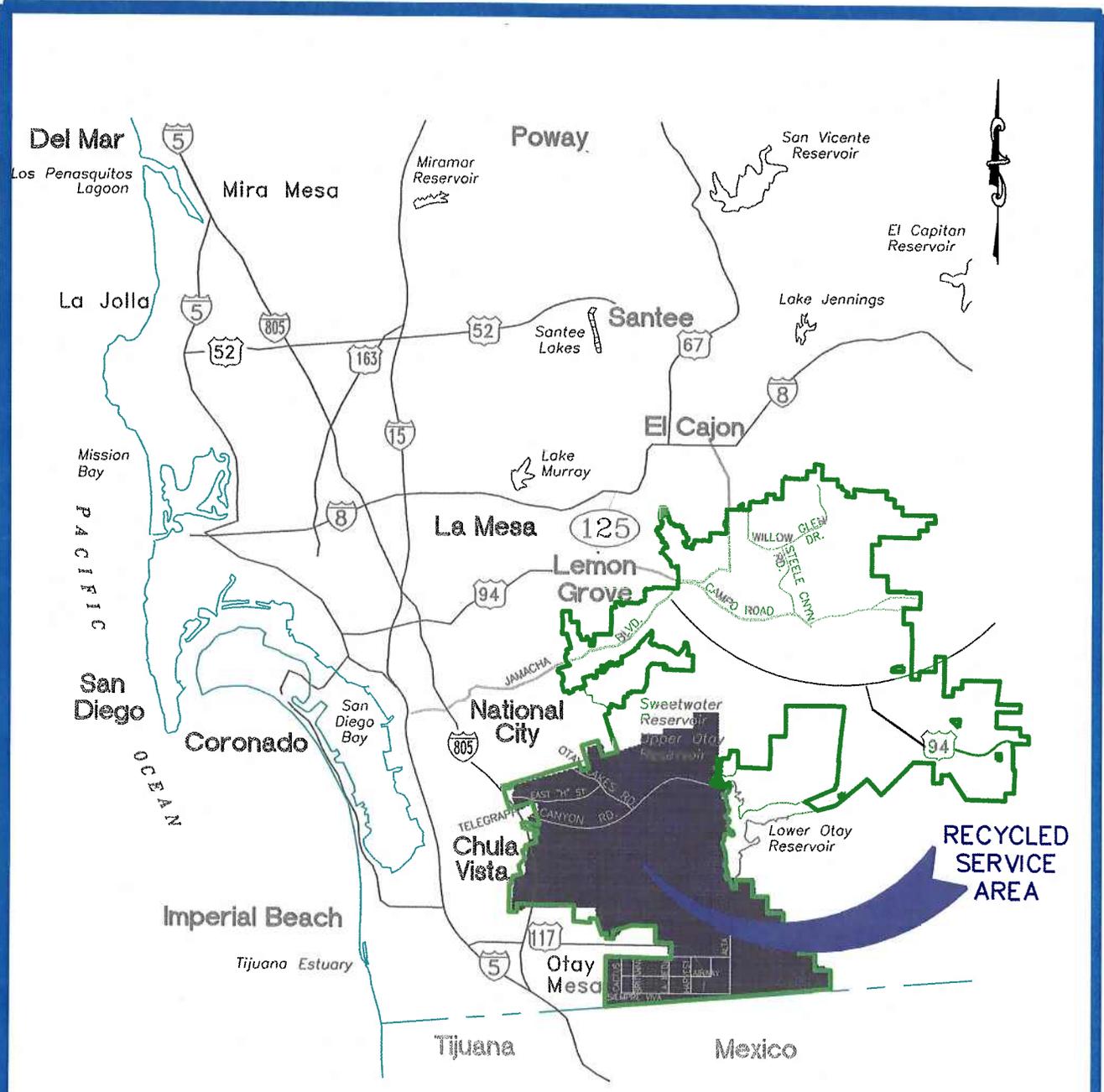
The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on December 2, 2009 and the following comments were made:

- Staff indicated that the District issued a formal Request for Proposal (RFP), on November 2, 2009, to ten consultants:
 - 1) AEGIS
 - 2) Dudek
 - 3) Harris & Associates
 - 4) Lee and Ro
 - 5) Malcolm Pirnie
 - 6) MTGL, Inc.
 - 7) PBS&J
 - 8) Snipes-Dye
 - 9) Trevet, Inc.
 - 10) Vanir Construction Management
- Staff indicated that AEGIS was the only company who submitted a proposal; six companies had indicated that they did not have the expertise and were not qualified to perform the services, two pursued other opportunities; and one was unable to complete a detailed proposal on time. Staff also indicated that the current consultant that provides these same services (AECOM) chose not to submit a proposal or letter of interest.
- Staff is recommending that the Board authorize the General Manager to enter into a Professional Services agreement (in an amount not-to-exceed \$300,000) with AEGIS Engineering Management (AEGIS) for the recycled water plan checking, retrofit, and inspection services for developer projects from Fiscal Years 2010 - 2012 (ending on June 30, 2012).

- AEGIS's references were excellent and the District has had good past experience with them.
- It was discussed by the Committee and staff that inspection services would improve the District's cross-connection process to avoid future mis-connections.
- The Committee inquired if this project would increase or decrease the request for irrigation plan checks. Staff indicated that there has been a steady increase in the demand for recycled irrigation plan checks.

Following the discussion, the Committee supported staffs' recommendation to the full Board on the consent calendar.

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**RECYCLED
SERVICE
AREA**



**OTAY WATER DISTRICT
IRRIGATION PLAN CHECK**

EXHIBIT A



AGENDA ITEM 18h

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Bob Kennedy <i>BK</i> Associate Civil Engineer	PROJECT/ SUBPROJECT:	Various DIV.NO. ALL
	Ron Ripperger <i>m</i> Engineering Manager		
APPROVED BY: (Chief)	Rod Posada <i>Rod</i> Chief, Engineering		
APPROVED BY: (Asst. GM):	Manny Magaña <i>m magaña</i> Assistant General Manager, Engineering and Operations		
SUBJECT:	Award of As-Needed Traffic Engineering Services Contract for Fiscal Years 2010 and 2011		

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board of Directors (Board) authorizes the General Manager to enter into an Agreement for Professional Services for As-Needed Traffic Engineering Services with Darnell & Associates in an amount not-to-exceed \$175,000 during Fiscal Years 2010 and 2011 (ending June 30, 2011).

COMMITTEE ACTION:

Please see Attachment A.

PURPOSE:

To obtain Board authorization for the award of a professional services contract for traffic engineering services on an as-needed basis in support of the District's Capital Improvement Program (CIP). The contract amount is not-to-exceed \$175,000 for Fiscal Years 2010 and 2011.

ANALYSIS:

The District will require the professional services of a traffic engineering consultant in support of the District's CIP projects for Fiscal Years 2010 and 2011. The As-Needed Traffic Engineering Services contract will provide the District with the ability to obtain consulting services in a timely and efficient manner and on an as-needed basis.

The District will require the expertise of a traffic engineering consultant to provide traffic control plans, traffic signal modification plans, stripping plans, and traffic control permits for a variety of CIP projects. It is more efficient and cost effective to issue a contract on an as-needed basis. This concept has also been used in the past for other disciplines like civil engineering, geotechnical, electrical, and environmental services.

The District will issue task orders to the Consultant for specific projects during the contract period. The Consultant will then prepare a detailed scope of work, schedule, and cost estimate for each task order assigned under the contract. Upon written task order authorization from the District, the Consultant shall then proceed with the project as described in the scope of work.

The CIP projects that are estimated to require traffic engineering services for Fiscal Years 2010 and 2011, at this time, are listed below:

CIP	DESCRIPTION	ESTIMATED COST
P2496	Otay Lakes Road Utility Relocations	\$15,000
R2048	Otay Mesa Distribution Pipelines and Conversions	\$25,000
R2058	Airway Road Recycled Water Pipeline	30,000
R2077	Alta Road Recycled Water Pipeline	20,000
R2087	Wueste Road Recycled Water Pipeline	20,000
S2019	Avocado Blvd. 8-inch Sewer Replacement	\$10,000
S2020	Calavo Drive 8-inch Sewer Replacement	\$10,000
S2021	Jamacha Road 8-inch Sewer Replacement	\$10,000
S2022	Hidden Mesa Drive 8-inch Sewer Rehabilitation	\$10,000
	TOTAL:	\$150,000

The traffic engineering services scopes for the above projects are estimated from preliminary information and past projects. Therefore, staff believes that a \$175,000 cap on the As-Needed Traffic Engineering Services contract is adequate, while still providing a buffer.

The contract is not-to-exceed \$175,000 for all task orders. Fees for professional services will be charged to the CIP Projects for which the traffic engineering services are performed.

This As-Needed Traffic Engineering Services contract does not commit the District to any expenditure until a task order is approved to perform work on a CIP Project. The District does not guarantee work

to the consultant, nor does the District guarantee to the consultant that it will expend all of the funds authorized by the contract on professional services.

The District solicited traffic engineering services by placing an advertisement on the OWD website, San Diego Union Tribune, and the San Diego Daily Transcript on September 24, 2009. Fifteen (15) firms submitted a letter of interest and a statement of qualifications. The Request for Proposal (RFP) for As-Needed Traffic Engineering Services was sent to all fifteen (15) firms resulting in eight (8) proposals received on October 20, 2009. They are as follows:

- RCE Traffic Engineering
- Linscott, Law & Greenspan, Engineers
- Darnell & Associates, Inc.
- Fehr & Peers Transportation Consultants
- Kimley-Horn and Associates
- Harris & Associates
- RBF Consulting
- KOA Corporation

The seven (7) firms that chose not to propose are Rick Engineering Company, Parsons, TPR, Construction Testing & Engineering, Willdan, Psomas, and LSA.

In accordance with the District's Policy 21, staff evaluated and scored all written proposals. Darnell & Associates received the highest score for their services based on their experience, understanding of the scope of work, proposed method to accomplish the work, and their composite hourly rate. Darnell & Associates was the most qualified consultant with the best overall proposal. The District has experience with Darnell & Associates on two projects. They worked on the 36-inch Jamacha Road Pipeline project and the Recycled Pipeline project from the Southbay Water Reclamation Plant to the District's 450-1 Reservoir as a subconsultant to Lee & Ro, Inc. They are a highly rated company and are readily available to provide the services required. A summary of the complete evaluation is shown in Attachments B & C.

FISCAL IMPACT:



The funds for this contract will be expended from the CIP projects noted previously. The fees for professional services requested herein are available in the authorized CIP project budgets. This contract is for professional services based on the District's need

and schedule, and expenditures will not be made until a task order is approved by the District for the consultant's professional services on a specific CIP project.

The Project Manager anticipates that the budget will be sufficient to support the professional services required for the specific CIP projects previously noted.

STRATEGIC GOAL:

This project supports the District's Mission statement, "To provide the best quality of water and wastewater service to the customers of the Otay Water District, in a professional, effective, and efficient manner," and the District's Strategic Goal, in planning for infrastructure and supply to meet current and future potable water demands.

LEGAL IMPACT:

None.



General Manager

P:\WORKING\As Needed Services\Traffic Engineer\Staff Report\BD 01-06-10, As-Needed Traffic Engineering Services.doc

BK/RR/RP:jf

Attachments: Attachment A
Attachment B
Attachment C

QA/QC Approved:

Lisa Colman-Boyd
NAME

11/23/09
DATE



ATTACHMENT A

SUBJECT/PROJECT:	Award of As-Needed Traffic Engineering Services Contract for Fiscal Years 2010 and 2011
Various	

COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on December 2, 2009 and the following comments were made:

- Staff is requesting that the Board authorize the General Manager to enter into a Professional Services Agreement for as-needed Traffic Engineering Services with Darnell & Associates in an amount not-to-exceed \$175,000 for Fiscal Years 2010 and 2011.
- Staff indicated that the contract will allow the District to obtain consulting services in a timely and efficient manner on an as-needed basis.
- Staff stated that included in the staff report is a list of CIP projects requiring traffic engineering services for Fiscal Years 2010 & 2011. It includes an estimated cost for each project, and a buffer of \$25,000 to allow for any future expansions or work.
- Staff indicated that the process for soliciting and selecting a firm was in compliance with the District Policy 21. A Summary of Proposal Rankings by Panel Members lists the overall score of eight firms who submitted proposals. Also provided was a Fee Evaluation that was established by comparing billing rates for five engineering positions and one technician drafting position. Darnell and Associates received the highest score and was the most qualified consultant with the best overall proposal.
- Staff indicated that Darnell & Associates provided services for the District's Recycled Pipeline project (450-1 Reservoir/680-1 Pump Station) as a subconsultant to Lee & Ro, and the 36-inch Jamacha Road Pipeline project. Staff stated that they are satisfied with

Darnell & Associates' services and that they are the most qualified consultant based on their overall score.

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

ATTACHMENT B

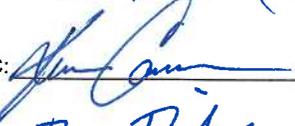
SUMMARY OF PROPOSAL RANKINGS BY PANEL MEMBERS

Professional As-Needed Traffic Engineering Design Services

		WRITTEN					TOTAL SCORE	AVERAGE SCORE	References
		Qualifications of Staff	Understanding of scope, schedule, resources	Soundness and Viability of Proposed Project Plan	Composite Hourly Rate ¹	Consultant's commitment to DBE			
SCORE		20	20	25	35	Y/N	100		Pass/Fail
RCE Traffic Engineering	Lisa Coburn-Boyd	18	17	20	34	Y	89	84	
	Ron Ripperger	18	16	20	34		88		
	Jerry Munoz	15	15	15	34		79		
	Bob Kennedy	18	15	18	34		85		
	David Charles	10	14	19	34		77		
Linscott, Law & Greenspan, Engineers (LLG)	Lisa Coburn-Boyd	18	18	23	34	Y	93	91	
	Ron Ripperger	18	18	22	34		92		
	Jerry Munoz	20	20	23	34		97		
	Bob Kennedy	17	16	19	34		86		
	David Charles	17	17	21	34		89		
Darnell & Associates	Lisa Coburn-Boyd	17	17	20	35	Y	89	93	PASS
	Ron Ripperger	18	18	23	35		94		
	Jerry Munoz	18	20	21	35		94		
	Bob Kennedy	19	18	23	35		95		
	David Charles	18	17	23	35		93		
Fehr & Peers Transportation Consultants	Lisa Coburn-Boyd	16	17	20	25	Y	78	78	
	Ron Ripperger	17	16	20	25		78		
	Jerry Munoz	20	20	23	25		88		
	Bob Kennedy	16	17	18	25		76		
	David Charles	12	12	19	25		68		
Kimley-Horn and Associates, Inc.	Lisa Coburn-Boyd	18	18	23	28	Y	87	85	
	Ron Ripperger	17	17	20	28		82		
	Jerry Munoz	20	20	23	28		91		
	Bob Kennedy	17	17	21	28		83		
	David Charles	16	16	22	28		82		
Harris & Associates	Lisa Coburn-Boyd	17	17	21	27	Y	82	83	
	Ron Ripperger	17	17	20	27		81		
	Jerry Munoz	20	20	24	27		91		
	Bob Kennedy	17	16	19	27		79		
	David Charles	16	16	21	27		80		
RBF Consulting	Lisa Coburn-Boyd	17	18	21	30	Y	86	86	
	Ron Ripperger	18	17	20	30		85		
	Jerry Munoz	20	20	23	30		93		
	Bob Kennedy	17	17	21	30		85		
	David Charles	16	16	20	30		82		
KOA Corporation	Lisa Coburn-Boyd	18	17	21	32	Y	88	88	
	Ron Ripperger	17	17	21	32		87		
	Jerry Munoz	18	20	21	32		91		
	Bob Kennedy	17	17	22	32		88		
	David Charles	17	17	22	32		88		

1. See Attachment "C"

PM Signature: 

QC: 

Engineering Manager: 

ATTACHMENT C

As-Needed Design Services Fee Evaluation

Design	Max Rate	RCE Traffic Engineering Rate	Linscott, Law & Greenspan, Engineers (LLG) Rate	Darnell Associates Rate	Fehr & Peers Transportation Consultants Rate	Kimley-Horn and Associates, Inc. Rate	Harris & Associates Rate	RBF Consulting Rate	KOA Corporation Rate
Principal Engineer	\$ 225.00	\$ 130.00	\$ 185.00	\$ 175.00	\$ 225.00	\$ 195.00	\$ 200.00	\$ 185.00	\$ 195.00
Associate Principal Engineer	\$ 175.00	\$ 130.00	\$ 160.00	\$ 150.00	\$ 170.00	\$ 158.00	\$ 170.00	\$ 165.00	\$ 175.00
Senior Transportation Engineer	\$ 155.00	\$ 130.00	\$ 140.00	\$ 130.00	\$ 150.00	\$ 120.00	\$ 155.00	\$ 140.00	\$ 135.00
Engineering II	\$ 125.00	\$ 125.00	\$ 90.00	\$ 100.00	\$ 125.00	\$ 115.00	\$ 115.00	\$ 125.00	\$ 95.00
Engineering I	\$ 115.00	\$ 115.00	\$ 85.00	\$ 90.00	\$ 100.00	\$ 115.00	\$ 100.00	\$ 95.00	\$ 90.00
Technician/Drafter	\$ 115.00	\$ 115.00	\$ 80.00	\$ 80.00	\$ 95.00	\$ 115.00	\$ 100.00	\$ 79.00	\$ 80.00

Hourly Rate Calculation Formula = $35 - [(Consultant\ Rate - Min.\ Rate) * 10]$
(Max. Rate - Min. Rate)

Sample Hourly Rate Calculation Formula = $35 - [(770.00 - 725.00) * 10] = 31.8$
(For KOA)
(865.00 - 725.00)

Total:	\$ 745.00	\$ 740.00	\$ 725.00	\$ 865.00	\$ 818.00	\$ 840.00	\$ 789.00	\$ 770.00
Score:	33.6	33.9	35.0	25.0	28.4	26.8	30.4	31.8

Notes

- Rates shown in **bold** indicate that the maximum rate from all of the proposals was used for that item because the rate was omitted from the proposal.
- The score for proposed fee is weighted between the minimum and maximum fees with a minimum of 25 points for the highest fee and a maximum of 35 points for the lowest fee.

Min. \$ 725.00 Max. \$ 865.00

QA/QC Approved:

NAME: Lisa Coleman Boyd DATE: 11-4-09



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010	
SUBMITTED BY:	Lisa Coburn-Boyd <i>LCB</i> Environmental Compliance Specialist	PROJECT NO./ SUBPROJECT:	P2494 - 001101	DIV. ALL NO.
	Ron Ripperger <i>Ripperger</i> Engineering Manager			
APPROVED BY: (Chief)	Rod Posada <i>R. Posada</i> Chief, Engineering			
APPROVED BY: (Asst. GM):	Manny Magaña <i>M. Magaña</i> Assistant General Manager, Engineering and Operations			
SUBJECT:	Board approval for the District to join the Joint Water Agencies for the Preparation of a Natural Community Conservation Plan/Habitat Conservation Plan			

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board of Directors (Board) 1) approves an increase in the project budget from \$226,000 to \$830,000, and 2) authorizes the General Manager to enter into an agreement with the Joint Water Agencies (JWA) partners (Sweetwater Authority, Helix, and Padre Dam) for the preparation of a Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP).

COMMITTEE ACTION: _____

Please see Attachment A.

PURPOSE:

To obtain Board approval for a project budget increase of \$604,000 and to obtain Board authorization for the General Manager to enter into an agreement with the three JWA partners, Sweetwater Authority, Helix, and Padre Dam for the preparation of a NCCP/HCP.

ANALYSIS:

In September 2007, the General Manager, Mark Watton, met with the General Managers of Helix, Padre Dam, and Sweetwater Authority to discuss whether they would support the inclusion of the District as a partner in the Joint Water Agencies NCCP/HCP. The decision at that time was that they would welcome the District as a partner, but only after their plan had received final approval from the Wildlife Agencies (US Fish & Wildlife Service and CA Dept. of Fish & Game) and their permits were in place. Since that time, the Wildlife Agencies have requested changes to the JWA documents that have delayed the approval process and have opened up a window of opportunity for the District to become a partner in the JWA Plan before final approval.

A letter was received from the JWA Partners on November 3, 2009 (see Exhibit A) asking if the District would be interested in becoming a full partner. This request assumes that the preparation of the District's subarea plan is far enough along that it will be complete by the time that the JWA Partners have to submit their final documents to the Wildlife Agencies. The District's consultant, RECON, has been working on our subarea plan and is confident that they will meet the spring timeframe for having a completed plan. The ability to join in with the JWA Plan at this time, rather than through an amendment process after their plan has been approved, has several advantages. The main advantage is that the District will be able to implement our subarea plan and self-permit for projects much sooner than if we had to go through the amendment process, a process that has not been done before and may take much longer than anticipated. Other advantages are that we will be a part of the overall CEQA/NEPA process for the JWA Plan and will not have to prepare a separate CEQA/NEPA document just for our subarea plan. This change will allow the District to be able to share some of the costs going forward with the other three JWA partners.

The November 3, 2009 letter from the JWA partners included a request for the District to compensate the original three partners in the Plan for work that has been completed. During the original meeting to discuss becoming a partner in the JWA Plan, in September 2007, the District proposed that it would be reasonable to provide a financial contribution to the Partners for their efforts in undertaking the Plan thus far and for development of Plan components that are of value to the District. The District would have needed to prepare these components were it not for the existence of the draft Plan. These components include the Subregional Plan, the Conservation Analysis, the Subarea Plan format and content requirements, and the Model Implementing Agreement.

The Partners calculated what they felt was a reasonable and fair contribution for the District based on what they have expended through October 2009. Table 1. below is a summary of the total costs expended to date and is taken from the November 3, 2009 letter from the JWA Partners.

Table 1. Total JWA Partner Costs

Total Costs for JWA NCCP Partners (through Oct 2009)				
Partner	Staff (includes overhead)	Consultants/Misc.	Legal	Total
Helix	\$77,339	\$525,236	\$208,589	\$811,164
Padre Dam	\$197,428	\$314,556	\$146,430	\$658,413
Sweetwater Authority ¹	\$84,308	\$396,503	\$62,437	\$543,248
TOTAL	\$359,075	\$1,236,295	\$417,456	\$2,012,825

¹ Sweetwater costs for staff and legal have not been tracked separately since Sept. 2007; consultant costs are included.

The total cost is approximately \$2 million and if the District had been a part of the process since its inception, one fourth of that amount is \$500,000. In order to be equitable, the Partners agreed that 20% should be deducted to account for project costs associated with in-process changes to the direction of the plan, making the District's contribution to the process \$400,000. This would be equally distributed between the three current partners.

There are several other costs going forward that will be split between the four partners, if the District decides to become a full partner. These include the CEQA/NEPA process for the plan which is estimated to cost \$125,000 to complete, legal fees associated with the negotiations of the JWA partners with the Wildlife Agencies which are estimated to cost \$110,000 and \$55,000 for contracting with Rick Alexander Company for assistance in policy development and resolution and Wildlife Agency negotiations. The District's contribution for these miscellaneous fees would be \$72,500.

The current CIP budget is \$226,000. This amount is designated for the completion of the District's Subarea Plan which will become part of the overall JWA Plan. In order to complete the District's Subarea Plan, provide the financial compensation to the original three JWA Partners, and to cover the District's contribution to the tasks necessary to complete the JWA Plan, the budget will need to be increased from \$226,000 to \$830,000.

FISCAL IMPACT:



The total budget for CIP P2494, as approved in the FY 2010 budget, is \$226,000. Expenditures to date are \$36,957. Total expenditures, plus outstanding commitments and forecast to date including the NCCP/HCCP, are \$830,000 (See Attachment B for budget details). The Project Manager has determined that with a budget increase of \$604,000, the project will be completed with the new budget amount of \$830,000.

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

STRATEGIC GOAL:

This project supports the District's strategic goal of creating a comprehensive environmental program that is proactive in response to environmental compliance.

LEGAL IMPACT:

None.



General Manager

P:\WORKING\CIP P2494 MSCP\BD 01-06-2010, Staff Report, Request to Join JWA Plan, (LCB-RR) .doc

LCB/RR:jf

Attachments: Attachment A
Attachment B
Exhibit A

QA/QC Approved:

Name: Bel Mel

Date: 11/20/09



ATTACHMENT A

SUBJECT/PROJECT:	Board approval for the District to join the Joint Water Agencies for the Preparation of a Natural Community Conservation Plan/Habitat Conservation Plan
P2494-001101	

COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee reviewed this item at a meeting held on December 2, 2009 and the following comments were made:

- Staff is recommending that the Board approve a \$604,000 increase in the project budget (from \$226,000 to \$830,000) and authorize the General Manager to enter into an agreement with the Joint Water Agencies (JWA) partners (Sweetwater Authority, Helix, and Padre Dam) for the preparation of a Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP).
- The Committee requested that staff add to the agenda title/description the following:

Natural Community Conservation Plan/Habitat Conservation Plan(NCCP/HCP)
- Staff provided a history of the District's efforts to become a partner of the Joint Water Agencies NCCP/HCP. Discussions between the District and JWA Partners first began in September 2007. At that time, the Partners indicated that they would welcome the District as a partner after their Plan had received final approval from the Wildlife Agencies (US Fish & Wildlife Services and the California Department of Fish & Game) and their permits were in place. It was noted that District staff began working on a subarea plan with the intent of amending it into the JWA NCCP/HCP.
- Staff indicated that in early November 2009, the JWA Partners sent correspondence to the General Manager Watton inquiring if the District was interested in becoming a full partner immediately rather than through the amendment process.

- Staff stated that the District's opportunity to join JWA Partners became available immediately because the Wildlife Agencies have requested changes to the JWA Partners' documents, therefore delaying their approval process.
- Staff indicated that the District's subarea plan is far enough along that it will be complete in time to be included in the final submittal to the Wildlife Agencies.
- Staff indicated the following advantages to joining the JWA Partners before final approval:
 - Implementation of the District's subarea plan and self-permit would commence sooner as opposed to through the amendment process
 - Inclusion of the District in the JWA CEQA/NEPA process
 - Saves the District money by sharing costs with JWA Partners
- Staff indicated that the JWA Partners is requesting that the District compensate the original three partners for work already completed. It was noted by staff that in 2007, the District proposed that it would be reasonable to provide a financial contribution to the JWA Partners for their efforts to date.
- It was discussed by staff that the JWA Partners are requesting a reasonable and fair contribution for what they have expended from September 2007 through October 2009. Staff indicated that Table 1, an attachment to the staff report, illustrates a calculation amounting to \$400,000. Staff stated that future additional costs (i.e. CEQA/NEPA process, legal fees, and a contract with Rick Alexander Company) will be split between the four partners; approximately \$72,500.
- Staff indicated that the District's current budget for this project is \$226,000. Staff is requesting an increase of \$604,000 to the budget in order to complete the District's subarea plan, compensate the JWA Partners for past work and contribute the District's share of future costs.
- It was discussed that the real advantage of joining the JWA Partners is the timing. With the District alone, it could take several years of negotiations with the Wildlife Agencies; plus time and effort to negotiate and finance permits for new projects.

- Staff stated that the project was not included in the District's budget as the cost of the project was unknown. Thus staff was unable to determine an approximate allocation for the JWA NCCP/HCP project. The District negotiated with the JWA Partners to establish a reasonable and fair share of costs and feel the cost is reasonable and is now requesting funding of the project.
- The Committee recommended that staff include information of the cost savings resulting from joining the JWA Partners earlier than scheduled. It was discussed that if the District delays it's decision to join JWA Partners at a later date, costs would be incurred by the District due to the time and cost associated with Resource Agency negotiations, cost for the production of a separate CEQA/NEPA document, cost for the production of a Planning Agreement with the Resource Agencies (not required if we join the JWA effort now) and any project related costs for impacts to biological resources that occur before the District's plan is finalized. Therefore, joining the JWA partnership now could result in cost-savings for the District.

Following the discussion, the Committee supported staffs' recommendation and presentation to the full Board as an action item.



ATTACHMENT B

Otay Water District
P2494 - Multiple Species Conservation Plan

Date Updated: November 19, 2009

Budget \$830,000	Committed	Expenditures	Outstanding Commitment & Forecast	Projected Final Cost	Vendor / Comments
Planning					
In House/Labor	25,669	16,985	8,684	25,669	
Consultant Contracts	254,331	19,972	234,359	254,331	RECON
JWA Contribution & Other Payments	550,000		550,000	550,000	JWA Partners & Others
			-	-	
Total Planning	\$ 830,000	\$ 36,957	\$ 793,043	\$ 830,000	
Design					
In House/Labor				-	
				-	
				-	
Total Design	\$ -	\$ -	\$ -	\$ -	
Construction					
In House/Labor				-	
				-	
Total Construction	\$ -	\$ -	\$ -	\$ -	
Grand Total	\$ 830,000	\$ 36,957	\$ 793,043	\$ 830,000	

QA/AC Approved:

PM Signature: Lisa Cooper-Boyd

DATE: 11/24/09

QC Signature: [Signature]

DATE: 11/20/09

Engr. Mgr.: [Signature]

DATE: 11/20/09

EXHIBIT A



Helix Water District



PADRE DAM
Municipal Water District



JOINT WATER AGENCIES: NATURAL COMMUNITY CONSERVATION PLAN

November 3, 2009

Mr. Mark Watton
General Manager
Otay Water District
2554 Sweetwater Springs Blvd.
Spring Valley, CA 91978-2004

Dear Mr. Watton:

Helix Water District, Padre Dam Municipal Water District, and Sweetwater Authority (Partners) are currently in the process of revising and completing the Joint Water Agencies Natural Community Conservation Plan/Habitat Conservation Plan (Plan). As you know, Otay Water District requested admission to the Plan in July 2007 and in October 2007 the Partners notified the U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (Department) (collectively, "Wildlife Agencies") of their concurrence with this request.

As a follow up to recent discussion between Sweetwater staff and Otay staff regarding the proposed revisions to the Plan and Otay's progress on its Subarea Plan, the General Managers met October 23rd to discuss the inclusion of Otay in the Plan. We are glad to report that the Partners unanimously agreed to invite Otay to be a full partner in the Plan at this time, as opposed to through the plan amendment process as initially contemplated. The goal would be for Otay to complete Plan development and key project documents on the same schedule as the other Partners so that application for take authorizations and environmental documentation could be completed on a single schedule. We must seek authorization from our respective Boards soon to complete the planning process, but are delaying this request to hear from Otay about an expanded partnership.

There are many details to be worked out and much coordination to be accomplished, but we are confident that this can occur in a timely fashion, particularly since our staffs have been cooperating effectively to coordinate Plan development over the last year and a half. There are however, six requests that the partners ask Otay to consider before the new partnership may proceed:

- **Project Schedule:** Otay is asked to proceed with development of its portion of the Plan on what may be an accelerated schedule so that Otay may be included in the Wildlife Agencies' review of the draft submission of the Subregional Plan (SRP) and Conservation Analysis (CA) in February 2010, and four Subarea Plans (SAP), including Otay, in April 2010. The most recent schedule and estimated costs provided by our biological and planning consultants Technology Associates International Corporation (TAIC) is attached, but please note that it shows a start date on November 1. The actual start date remains pending while the inclusion of Otay is explored, but the chronological time required for the various tasks should remain the same whatever the actual start date is.
- **Biological Consultants:** The parties would continue to independently retain their biological and planning consultants (TAIC and RECON). Those consultants would work cooperatively on key elements of the Plan such as coordination of the SRP and SAPs and the production of the critical CA, including the introduction of any new species proposed for coverage.
- **Legal Representation:** It would not be productive in our view to have more than a single legal firm dealing with the Wildlife Agencies' on the completion of the Plan and issuance of take authorizations. The Partners see Best, Best and Krieger (BBK), and specifically Lindsay Puckett in this role. The Partners propose that Otay contract with BBK for this specific project. Please note that it is likely that BBK would require a waiver of potential conflicts in representing all four partners to complete the Plan. This total cost is estimated to be \$110,000* to complete the Plan. The legal costs would be divided into four equal shares for tasks benefiting all four Partners (such as review of the Subregional Plan).

The current partners have also requested that BBK contract with The Rick Alexander Company to provide assistance in policy development and resolution, and Wildlife Agency negotiations. Those costs would be divided into four equal shares as well for tasks benefiting all four Partners. This total cost is estimated to be \$55,000* to complete the Plan.

- **EIR/EIS Preparation:** A.D. Hinshaw and Associates (ADHA) should continue as the sole entity preparing the EIR/EIS with the cooperation of TAIC and RECON. ADHA will be asked to update their pending cost and scope proposal to include Otay, and if acceptable these cost would be divided into four equal shares. This total cost is estimated to be \$125,000* to complete the Plan.

- **Key Principles Memorandum, Wildlife Agency Acceptance Letter, and Subregional Plan:** The Partners request that Otay provide a letter of assurance that the Memorandum of Key Principles for Completion and Implementation of the Plan dated May 27, 2009, the letter of approval (with conditions) from the Wildlife Agencies dated August 11, 2009, and current draft Subregional Plan are acceptable policy documents to guide completion of the Plan, including all four SAPs. Otay should understand that opportunity may exist to modify these policies and guidelines somewhat through the contents of the Otay SAP, which is subject to an independent Implementing Agreement (IA) with the Wildlife Agencies.

** These costs are rough estimates and are based on limited knowledge of the status and content of what would be key Otay inputs to the Plan.*

- **Otay Compensation to Current Partners for Work Completed:** In 2007 Otay proposed that it was reasonable to provide a financial contribution to the Partners for their efforts in undertaking the Plan thus far and for development of Plan components that are of value to Otay. These components would have been prepared independently by Otay were it not for the existence of the draft Plan and include the SRP, CA, SAP format and content requirements, and the Model IA. Consequently the Partners propose that a reasonable and fair contribution for Otay would be calculated based on the table below, which shows what the Partners approximate costs for the Plan have been to date.

Total Partner Costs:

Total Costs for JWA NCCP Partners (Through October 2009)				
Partner	Staff (includes overhead)	Consultants/ Misc.	Legal	Total
Helix	\$77,339	\$525,236	\$208,589	\$811,164
Padre Dam	\$197,428	\$314,556	\$146,430	\$658,413
Sweetwater Authority ¹	\$84,308	\$396,503	\$62,437	\$543,248
TOTAL	\$359,075	\$1,236,295	\$417,456	\$2,012,825

¹ Sweetwater costs for staff and legal have not been tracked separately since Sept. 2007; consultant costs are included.

For this analysis, the Partners have assumed that Otay was a part of the process since its inception.

Since the approximate total cost is \$2 million, one fourth of that is \$500,000. If the Partners further assume that, to be equitable, 20% should be deducted

Mark Watton
Otay Water District
November 3, 2009
Page 4 of 4

to account for project costs that were associated with in-process changes to the direction of the Plan, the total for Otay's contribution becomes \$400,000.

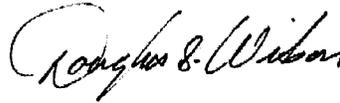
Consequently, the equal financial contribution requested for each of the three current Partners from Otay is \$133,333.

Please review this proposal and respond at your earliest convenience. It is our hope that Otay will choose to become a Partner and that we may proceed toward a timely conclusion of this important project. Please feel to contact any of us, Rick Alexander (619-409-6830), or Lindsay Puckett (619-525-1378) if you have questions or comments.

Sincerely,



Mark S. Weston, General Manager
Helix Water District



Doug Wilson, General Manager
Padre Dam Municipal Water District



Mark Rogers, General Manager
Sweetwater Authority

cc: Lisa Coburn-Boyd – Otay Water District
Lindsay Puckett – Best Best & Krieger
Rick Alexander – Sweetwater Authority

Attachments



AGENDA ITEM 19a

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Sean Prendergast,  Payroll/AP Supervisor	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Joseph R. Beachem Joseph R. Beachem, Chief Financial Officer		
APPROVED BY: (Asst. GM):	German Alvarez  Assistant General Manager, Administration and Finance		
SUBJECT:	Director's Expenses for the 1st Quarter of Fiscal Year 2010		

GENERAL MANAGER'S RECOMMENDATION:

This is an informational item only.

COMMITTEE ACTION: _____

Please see Attachment A.

PURPOSE:

To inform the Board of the Director's expenses for the 1st quarter of Fiscal Year 2010.

ANALYSIS:

The Director's expense information is being presented in order to comply with State law. (See Attachment B for Summary and C-H for Details.)

FISCAL IMPACT:

None.

STRATEGIC GOAL:

Prudently manage District funds.

LEGAL IMPACT: _____

Compliance with State law.

Mark Watton
General Manager

Attachments:

- A) Committee Action Form
- B) Director's Expenses and per Diems
- C-H) Director's Expenses Detail



ATTACHMENT A

SUBJECT/PROJECT: Director's Expenses for the 1st Quarter of Fiscal Year 2010

COMMITTEE ACTION:

The Finance, Administration and Communications Committee reviewed this item at a meeting held on December 14, 2009 and the following comments were made:

- Staff presented Directors expenses for the first quarter of FY10. Total directors expenses from July to September 2009 was \$3,975.65.
- Each individual directors' expense for the first quarter was presented. Based on actual expenses for the first quarter, staff projected total directors expenses for FY10 will be approximately \$15,903.

Following the discussion, the committee supported presentation to the full board as an action item.

**BOARD OF DIRECTORS'
EXPENSES AND PER-DIEMS**

**FINANCE, ADMINISTRATION, AND
COMMUNICATIONS COMMITTEE MEETING
DECEMBER 14, 2009**

Policy 8 requires that staff present the Expenses and Per-Diems for the Board of Directors on a Quarterly basis:

- Fiscal Year 2010, 1st Quarter.
- The expenses are shown in detail by Board member, month and expense type.
- This presentation is in alphabetical order.
- This information was presented to the Finance, Administration, and Communications Committee on December 14, 2009.

Board of Directors' Expenses and Per-Diems
Fiscal Year 2010 Quarter 1 (Jul 09- Sep 09)

• Director Bonilla	\$0.00
• Director Breitfelder	\$1,113.90
• Director Croucher	\$800.00
• Director Lopez	\$1,179.20
• Director Robak	<u>\$882.55</u>
• Total	\$3,975.65

Director Bonilla

Fiscal Year 2010 Quarter 1

	Jul 09	Aug 09	Sep 09	Qtr 1
• Mileage Commute				
• Mileage Business				
• Travel and Seminars				
• Business Meetings				
• Director's Fees				
Monthly Totals	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	
Quarterly Total				0.00
• Meetings Attended				
• Meetings Paid*				
• Fiscal Year-to-Date 2009 (Jul 09-Sep 09)				\$0.00

*Director Bonilla does not request per-diem reimbursements

Director Breitfelder

Fiscal Year 2010 Quarter 1

	Jul 09	Aug 09	Sep 09	Qtr 1
• Mileage Commute	82.50		37.40	
• Mileage Business	22.00		22.00	
• Travel and Seminars				
• Business Meetings		25.00	25.00	
• Director's Fees	<u>600.00</u>		<u>300.00</u>	
Monthly Totals	<u>704.50</u>	<u>25.00</u>	<u>384.40</u>	
Quarterly Total				\$1,113.90
• Meetings Attended	7		3	
• Meetings Paid	6		3	
• Fiscal Year-to-Date 2009 (Jul 09-Sep 09)				\$1,113.90

Director Croucher

Fiscal Year 2010 Quarter 1

	Jul 09	Aug 09	Sep 09	Qtr 1
• Mileage Commute				
• Mileage Business				
• Travel and Seminars				
• Business Meetings				
• Director's Fees	<u>500.00</u>		<u>300.00</u>	
Monthly Totals	<u>500.00</u>		<u>300.00</u>	
Quarterly Total				\$800.00
• Meetings Attended	5		4	
• Meetings Paid	5		3	
• Fiscal Year-to-Date 2009 (Jul 09-Sep 09)				\$800.00

Director Lopez

Fiscal Year 2010 Quarter 1

	Jul 09	Aug 09	Sep 09	Qtr 1
• Mileage Commute	22.00	33.00	11.00	
• Mileage Business		13.20		
• Travel and Seminars				
• Business Meetings				
• Director's Fees	<u>300.00</u>	<u>500.00</u>	<u>300.00</u>	
Monthly Totals	<u>322.00</u>	<u>546.20</u>	<u>311.00</u>	
Quarterly Total				\$1,179.20
• Meetings Attended	3	5	3	
• Meetings Paid	3	5	3	
• Fiscal Year-to-Date 2009 (Jul 09-Sep 09)				\$1,179.20

Director Robak

Fiscal Year 2010 Quarter 1

	Jul 09	Aug 09	Sep 09	Qtr 1
• Mileage Commute	2.20	4.40	2.20	
• Mileage Business	20.35	45.10	3.30	
• Travel and Seminars		50.00	15.00	
• Business Meetings	20.00	20.00		
• Director's Fees	<u>200.00</u>	<u>300.00</u>	<u>200.00</u>	
Monthly Totals	<u>242.55</u>	<u>419.50</u>	<u>220.50</u>	
Quarterly Total				\$882.55
• Meetings Attended	4	7	4	
• Meetings Paid	2	3	2	
• Fiscal Year-to-Date 2009 (Jul 09-Sep 09)				\$882.55

Board of Directors' Expenses and Per Diems
Fiscal Year 2010 to Date (Jul 09- Sep 09)

• Director Bonilla	\$0.00
• Director Breitfelder	\$1,113.90
• Director Croucher	\$800.00
• Director Lopez	\$1,179.20
• Director Robak	<u>\$882.55</u>
• Total	\$3,975.65

Board of Directors' Expenses and Per Diems
*Projected Fiscal Year 2010 (Jul 09- Jun 10)

• Director Bonilla	\$ 0.00
• Director Breitfelder	\$ 4,455.00
• Director Croucher	\$ 3,200.00
• Director Lopez	\$ 4,716.00
• Director Robak	<u>\$ 3,532.00</u>
• Total	\$ 15,903.00

• *Based on actual expenses through 1st quarter

**OTAY WATER DISTRICT
SUMMARY - BOARD OF DIRECTORS EXPENSES
FOR THE PERIOD JULY 1, 2009 THROUGH SEPTEMBER 30, 2009**

DIRECTOR'S NAME: BONILLA, JAIME

ATTACHMENT D

Account Name	Date	Descriptions	SECTION D Amount
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**OTAY WATER DISTRICT
SUMMARY - BOARD OF DIRECTORS EXPENSES
FOR THE PERIOD JULY 1, 2009 THROUGH SEPTEMBER 30, 2009**

DIRECTOR'S NAME: BREITFELDER, LARRY

ATTACHMENT E

Account Name	Date	Descriptions	SECTION E Amount
Business meetings	8/18/2009	COUNCIL OF WATER UTILITIES	\$ 25.00
	9/15/2009	COUNCIL OF WATER UTILITIES	25.00
Business meetings Total			50.00
Director's Fee	7/1/2009	REGULAR BOARD OF DIRECTORS MEETING	100.00
	7/6/2009	CONSERVATION ACTION COMMITTEE MEETING	100.00
	7/7/2009	INTRA SITE TOUR - DISTRICT FACILITY SITE (1296-3 RESERVOIR)	100.00
	7/10/2009	AD HOC LEGAL MATTERS COMMITTEE MEETING	100.00
	7/20/2009	GM REVIEW - AGENDA BRIEFING	100.00
	7/27/2009	ENGINEERING, OPERATIONS AND WATER RESOURCES COMMITTEE MEETING	100.00
	9/15/2009	CONSERVATION ACTION COMMITTEE MEETING	100.00
	9/28/2009	ENGINEERING, OPERATIONS AND WATER RESOURCES COMMITTEE MEETING	100.00
	9/2/2009	REGULAR BOARD OF DIRECTORS MEETING	100.00
Director's Fee Total			900.00
Mileage - Business	7/31/2009	MEETING - JULY 6, 2009	22.00
	9/28/2009	MEETING - SEPT. 15, 2009	22.00
Mileage - Business Total			44.00
Mileage - Commuting	7/31/2009	MEETING - JULY 1, 7, 10, 20 & 27, 2009	82.50
	9/28/2009	MEETING - SEPT. 2 & 28, 2009	37.40
Mileage - Commuting Total			119.90
Grand Total			\$ 1,113.90

**OTAY WATER DISTRICT
SUMMARY - BOARD OF DIRECTORS EXPENSES
FOR THE PERIOD JULY 1, 2009 THROUGH SEPTEMBER 30, 2009**

DIRECTOR'S NAME: CROUCHER, GARY

Account Name	Date	Descriptions	ATTACHMENT F SECTION F Amount
Director's Fee	7/1/2009	REGULAR BOARD OF DIRECTORS MEETING	\$ 100.00
	7/7/2009	INTRA SITE TOUR - DISTRICT FACILITY SITE (1296-3 RESERVOIR)	100.00
	7/10/2009	LEGAL AD HOC COMMITTEE	100.00
	7/27/2009	ENGINEERING, OPERATIONS AND WATER RESOURCES COMMITTEE MEETING	100.00
	7/30/2009	AGENDA REVIEW WITH GM AND COUNCIL	100.00
	9/17/2009	GM REVIEW - AGENDA BRIEFING	100.00
	9/28/2009	ENGINEERING, OPERATIONS AND WATER RESOURCES COMMITTEE MEETING	100.00
Director's Fee Total	9/30/2009	WATER RATES AD HOC COMMITTEE MEETING	<u>100.00</u>
			<u>\$ 800.00</u>
Grand Total			<u><u>\$ 800.00</u></u>

**OTAY WATER DISTRICT
SUMMARY - BOARD OF DIRECTORS EXPENSES
FOR THE PERIOD JULY 1, 2009 THROUGH SEPTEMBER 30, 2009**

DIRECTOR'S NAME: LOPEZ, JOSE

Account Name	Date	Descriptions	ATTACHMENT G SECTION G Amount
Director's Fee	7/1/2009	REGULAR BOARD OF DIRECTORS MEETING	\$ 100.00
	8/5/2009	REGULAR BOARD OF DIRECTORS MEETING	100.00
	8/24/2009	SPECIAL REGULAR BOARD MEETING	100.00
	7/8/2009	WATER CONSERVATION GARDEN COMMITTEE MEETING	100.00
	7/22/2009	FINANCE AND ADMINISTRATIVE COMMITTEE MEETING	100.00
	8/10/2009	WATER CONSERVATION GARDEN COMMITTEE MEETING	100.00
	8/25/2009	FINANCE AND ADMINISTRATIVE COMMITTEE MEETING	100.00
	8/31/2009	GM REVIEW - AGENDA BRIEFING	100.00
	9/28/2009	CHULA VISTA WATER TASK FORCE	100.00
	9/2/2009	REGULAR BOARD OF DIRECTORS MEETING	100.00
	9/14/2009	FINANCE AND ADMINISTRATIVE COMMITTEE MEETING	100.00
Director's Fee Total			<u>1,100.00</u>
Mileage - Business	8/31/2009	MEETING - AUG. 10, 2009	<u>13.20</u>
Mileage - Business Total			<u>13.20</u>
Mileage - Commuting	8/31/2009	MEETING - AUG. 5, 24, & 25 2009	<u>33.00</u>
	7/31/2009	MEETING - JULY 1 & 22, 2009	22.00
	9/30/2009	MEETING - SEPT. 2, 2009	<u>11.00</u>
Mileage - Commuting Total			<u>66.00</u>
Grand Total			<u><u>\$1,179.20</u></u>

**OTAY WATER DISTRICT
SUMMARY - BOARD OF DIRECTORS EXPENSES
FOR THE PERIOD JULY 1, 2009 THROUGH SEPTEMBER 30, 2009**

DIRECTOR'S NAME: ROBAK, MARK

Account Name	Date	Descriptions	ATTACHMENT H SECTION H Amount
Business meetings	7/10/2009	THE CHAMBER SAN DIEGO EAST COUNTY	\$ 20.00
	8/7/2009	THE CHAMBER SAN DIEGO EAST COUNTY	20.00
Business meetings Total			<u>40.00</u>
Director's Fee	7/1/2009	REGULAR BOARD OF DIRECTORS MEETING	100.00
	7/9/2009	SAN VICENTE DAM RAISE CEREMONY	100.00
	8/5/2009	REGULAR BOARD OF DIRECTORS MEETING	100.00
	8/19/2009	WATER REUSE SAN DIEGO CHAPTER MEETING	100.00
	8/24/2009	SPECIAL REGULAR BOARD MEETING	100.00
	9/2/2009	REGULAR BOARD OF DIRECTORS MEETING	100.00
	9/3/2009	GM REVIEW - DISCUSSION OF GENERAL BUSINESS GOALS & OBJECTIVES FOR NEW YEAR	100.00
Director's Fee Total			<u>700.00</u>
Mileage - Business	8/31/2009	MEETING - AUG. 5, 19 & 24 2009	45.10
	7/31/2009	MEETING - JULY 6 & 31, 2009	20.35
	9/2/2009	MEETING - SEPTEMBER 2, 2009	3.30
Mileage - Business Total			<u>68.75</u>
Mileage - Commuting	8/31/2009	MEETING - AUG. 5 & 24 2009	4.40
	7/31/2009	MEETING - JULY 1, 2009	2.20
	9/2/2009	MEETING - SEPTEMBER 2, 2009	2.20
Mileage - Commuting Total			<u>8.80</u>
Seminars and conferences	8/21/2009	SAN DIEGO EAST COUNTY - WATER CONSERVATION	50.00
	9/25/2009	THE RANCHO SAN DIEGO-JAMUL BREAKFAST MEETING	15.00
Seminars and conferences Total			<u>65.00</u>
Grand Total			<u><u>\$ 882.55</u></u>



OTAY WATER DISTRICT
BOARD OF DIRECTORS
PER-DIEM AND MILEAGE CLAIM FORM

Pay to: Larry Breitfelder

Period Covered:
From 7-1-09 to 7-30-09

Employee Number: 7013

Date	Meeting Name	Purpose / Issues Discussed	Mileage	
			Home to OWD OWD to Home	Other Locations
✓* 7-1	OWD BoD		30 ✓	
✓* 7-6	CAC			40
✓* 7-7	Infra Site Tour		30 ✓	
✓* 7-10	Ad Hoc Legal Matters Committee		30 ✓	
7-16	EE Apprec			
✓* 7-20	GM Review		30 ✓	
✓* 7-27	EOG WR Committee		30 ✓	
			150	40

TOTAL MEETING PER DIEM: \$ 600.00
(\$145 per meeting)

TOTAL MILEAGE CLAIMED: 190 miles

Z. Burgh
(Director's Signature)

GM Approval Date: 8-20-09
Receipt
M. [Signature]

FOR OFFICE USE: TOTAL MILEAGE REIMBURSEMENT = \$ _____
✓ Per Susan Aug 8-20-09





**OTAY WATER DISTRICT
BOARD OF DIRECTORS
PER-DIEM AND MILEAGE CLAIM FORM**

EXHIBIT B

NOV 19 2009

Pay To: Larry Breitfelder

Period Covered:

Employee Number: 7013

From: 9/1/09 To: 9/30/09

ITEM	DATE	MEETING	PURPOSE / ISSUES DISCUSSED	MILEAGE	
				HOME to OWD OWD to HOME	OTHER LOCATIONS
1.	9/2/09	OWD Board Meeting	District Business	34	
2.	9/15/09	CAC	Conservation Action Committee		40
3.	9/28/09	OWD EO&WR Comm	Engineering, Operations & Water Resources Committee Meeting	34	
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					

Total Meeting Per Diem: \$300.00
(\$100 per meeting)

Total Mileage Claimed: 108 miles

(Director's Signature)

GM Receipt:

Date: 11-19-2009

FOR OFFICE USE: TOTAL MILEAGE REIMBURSEMENT: \$ _____

*Rec'd
11/25/09
from Susan Cruz*



AB000-1B4000-2101-528101

300.00

AB000-1B4000-2101-521102

22.00

EXHIBIT B

OTAY WATER DISTRICT BOARD OF DIRECTORS PER-DIEM AND MILEAGE CLAIM FORM

Pay To: Jose Lopez

Period Covered:

Employee Number: 7010

From: 7/01/09 To: 7/31/09

Table with columns: ITEM, DATE, MEETING, PURPOSE / ISSUES DISCUSSED, MILEAGE HOME to OWD OWD to HOME, MILEAGE OTHER LOCATIONS. Includes handwritten entries for items 1-3 and calculations for items 8-18.

Per Diem

Mileage

Total Meeting Per Diem: \$300 (\$100 per meeting)

Total Mileage Claimed: 40 miles

Director's Signature

GM Receipt: [Signature] 9.11.09

Date: 9/9/09

FOR OFFICE USE: TOTAL MILEAGE REIMBURSEMENT: \$

Handwritten notes: 9/15/09



AB000-1B4000-2101-528101
AB000-1B4000-2101-521102

300.00
33.00

EXHIBIT B

OTAY WATER DISTRICT
BOARD OF DIRECTORS
PER-DIEM AND MILEAGE CLAIM FORM

Pay To: Jose Lopez

Period Covered:

Employee Number: 7010

From: 8/01/09 To: 8/31/09

ITEM	DATE	MEETING	PURPOSE / ISSUES DISCUSSED	MILEAGE HOME to OWD OWD to HOME	MILEAGE OTHER LOCATIONS
✓ 1.	8/05	OWD	BOARD MEETING	20	
✓ 2.	8/10	WCG	WATER CONSERVATION GARDEN MTG		24
✓ 3.	8/24	OWD	SPECIAL BOARD MEETING (218)	20	
✓ 4.	8/25	OWD	FINANCE/ADMIN COMMITTEE MEETING	20	
✓ 5.	8/31	OWD	Agenda Briefing - Gen Mgr.		0
6.				0*	
7.					
8.				0*	
9.					
10.				5*	
11.				100.00*	
12.				500.00*	
13.				0*	
14.				20*	
15.				20*	
16.				20*	
17.				60*	
18.				60*	

Per Diem

Mileage

Total Meeting Per Diem: \$ 500.
(\$100 per meeting)

Total Mileage Claimed: 84 miles

Jose G. Lopez
(Director's Signature)

GM Receipt: [Signature] 9.11.09

Date: 9/9/09

FOR OFFICE USE: TOTAL MILEAGE REIMBURSEMENT: \$ _____

9/15/09
9.15.09



**OTAY WATER DISTRICT
BOARD OF DIRECTORS
PER-DIEM AND MILEAGE CLAIM FORM**

EXHIBIT B

Pay To: Jose Lopez

Period Covered:

Employee Number: 7010

From: 09/01/09 To: 09/30/09

ITEM	DATE	MEETING	PURPOSE / ISSUES DISCUSSED	MILEAGE	
				HOME to OWD OWD to HOME	OTHER LOCATIONS
✓ 1.	9/2/09	OWD	BOARD OF DIRECTORS MEETING	20	
✓ 2.	9/14/09	OWD	ADMIN & FINANCE COMMITTEE MTG	0	
✓ 3.	9/28/09	CVTF	CHULA VISTA WATER TASK FORCE		0
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					

Total Meeting Per Diem: \$ 300.-
(\$100 per meeting)

Total Mileage Claimed: 20 miles

(Director's Signature)

GM Receipt:

Date: 11-4-2009

FOR OFFICE USE: TOTAL MILEAGE REIMBURSEMENT: \$ _____

'09 NOV 6 AM 9:39



**OTAY WATER DISTRICT
BOARD OF DIRECTORS
PER-DIEM AND MILEAGE CLAIM FORM**

NOV 13 2009

Pay To: Mark Robak

Period Covered:

Employee Number: 70140909

From: 9-1-09 To: 9-30-09

3217 Fair Oaks Lane, Spring Valley, CA 91978

ITEM	DATE	MEETING	PURPOSE / ISSUES DISCUSSED	MILEAGE HOME to OWD OWD to HOME	MILEAGE OTHER LOCATIONS
✓ 1	9-2	Monthly Otay Board Meeting	General District Business	4	6
2	9-3	Meeting with Otay GM	Discussion of general District business and goals & objectives for new fiscal year	0	0
3	9-26	YMCA Branding Event	Annual Community Event – No Charge	0	0
4	9-27	Jamulfest at St. Pius	Annual Community Event – No Charge	0	0
Total Meeting Per Diem: \$200 (\$100 per meeting)				4	6

see per red check

Total Meeting Per Diem: \$200
(\$100 per meeting)

Total Mileage Claimed: 10 miles

Mark Robak

(Director's Signature)

Receipt
GM Approval: *[Signature]*

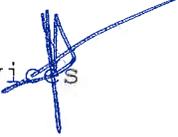
Date: 11-29-09

FOR OFFICE USE: TOTAL MILEAGE REIMBURSEMENT: \$ _____



AGENDA ITEM 19b

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Stephen Dobrawa,  Purchasing Manager	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Rom Sarno, Chief, Administrative Services 		
APPROVED BY: (Asst. GM):	German Alvarez, Assistant General Manager, Finance and Administration 		
SUBJECT:	AUTHORIZE AGREEMENT WITH UTILITY COST MANAGEMENT, LLC (UCM) FOR SAN DIEGO GAS AND ELECTRIC (SDG&E) BILL REVIEW.		

GENERAL MANAGER'S RECOMMENDATION:

That the Board authorize the General Manager to enter into an agreement with UCM, presented in "Attachment B", for the review of SDG&E rates and rate application to past invoices for potential refunds and future savings.

COMMITTEE ACTION: _____

See "Attachment A".

PURPOSE:

To request that the Board authorize the General Manager to enter into an agreement with UCM to review the prior three (3) years of SDG&E invoices to evaluate for errors in rate application and bill accuracy that may result in a refund due to over payment, and to provide the basis for the accuracy of future billing.

ANALYSIS:

UCM is a firm that provides utility bill auditing services to businesses and institutions throughout California. The firm was established in 1991 and has developed a broad-based clientele that includes numerous California municipalities and special districts.

UCM will review current and past gas and electricity billing data to identify any past overcharges and make rate changes that will reduce charges going forward. If errors are found in the

billing and in the application of rates, UCM will recover any refunds and correct any rate changes. UCM will receive their fee only if the District receives a refund or realizes any actual and verifiable bill reductions.

UCM is endorsed by the California Special Districts Association (CSDA), which has negotiated a discounted fee for CSDA members. UCM's normal fee is 50% of refunds obtained, and 50% of ongoing savings for three years. Under the discounted CSDA-negotiated fee, UCM is providing its services to Otay Water District and other CSDA members at 42% of refunds obtained and 42% of ongoing savings for three years.

The District has checked references of special districts that have contracted with UCM under the CSDA-negotiated fee structure, and contacted Sweetwater Authority, Fallbrook Public Utility District, and San Lorenzo Valley Water District, and all were positive.

FISCAL IMPACT:



Approving the execution of the UCM agreement will have no negative fiscal impact and may result in a refund for bills paid to SDG&E.

STRATEGIC GOAL:

Ensure financial health through formalized policies, prudent investing, and efficient operations.

LEGAL IMPACT:

None



General Manager

Attachment A - Committee Action
Attachment B - Agreement to Provide Utility Bill Auditing Service.

ATTACHMENT A

SUBJECT/PROJECT:	AUTHORIZE AGREEMENT WITH UTILITY COST MANAGEMENT, LLC (UCM) FOR SAN DIEGO GAS AND ELECTRIC (SDG&E) BILL REVIEW
-------------------------	--

COMMITTEE ACTION:

The Finance, Administration and Communications Committee reviewed this item at a meeting held on December 14, 2009. The following comments were made:

- Staff is proposing that the District engage Utility Cost Management (UCM) to review the prior three (3) years of SDG&E invoices to evaluate for errors in rate application and bill accuracy.
- UCM's normal fee is 50% of the refunds they obtain on behalf of the District and 50% of ongoing savings for three years. California Special District Association (CSDA) endorses UCM and has negotiated a discounted rate for all CSDA members of 42% of the refunds obtained and 42% of the ongoing savings for three years. The District, as a member of CSDA, will receive the discounted rate.
- UCM will only receive their fee if they obtain refunds or realize any actual and verifiable bill reductions on behalf of the District.
- UCM has worked with many cities and agencies. Staff checked their references, including Sweetwater Authority, Fallbrook Public Utility District and San Lorenzo Valley Water District, and all are positive and indicate that they have recovered from \$0 to \$80,000. UCM has also worked with the City of Orange, City of Newport Beach, University of Downey, etc.
- The District has approximately 83 meters and spends about \$3.5 million per year on power. The District is optimistic that some savings will be found.

Following the discussion, the committee supported staff recommendation and presentation to the board as an action item.

**AGREEMENT TO PROVIDE
UTILITY BILL AUDITING SERVICE**

This agreement is made by and between Utility Cost Management LLC ("UCM") and the entity signing below ("Client") as follows:

1. **Applicable to Client's Utility Accounts.** This Agreement applies to all gas and electricity accounts (and any related utility user taxes, other taxes, assessments, surcharges or fees) with respect to which Client:
 - (a) is receiving utility service as of the Effective Date (as defined below),
 - (b) has received utility service within three years prior to the Effective Date,
 - (c) receives utility service within one year after the Effective Date, or
 - (d) has permitted or authorized UCM to obtain a copy of the utility bill.
 The gas and electric accounts described in this paragraph are hereinafter referred to as "Utility Accounts". The "Effective Date", as that term is used above, is the first day of the calendar month after both UCM and Client have signed this Agreement.
2. **Client to Provide Utility Bills.** On or promptly after Client's execution of this Agreement, Client will provide UCM with a copy of at least one month's utility bills for all of Client's Utility Accounts.
3. **UCM Authorized to Obtain Information on Utility Accounts.** UCM is hereby authorized to obtain and review information relating to the Utility Accounts.
4. **UCM's Findings Letter.** UCM will use its best efforts to identify the basis for any refunds, credits or Future Savings (as defined below) on Client's Utility Accounts. UCM will send a "Findings Letter" to Client that generally sets forth the basis for any refunds, credits or Future Savings identified by UCM. UCM may, from time to time, supplement or amend its Findings Letter, and such supplement or amendment will be deemed to have occurred on the date the original Findings Letter was sent to Client.
5. **Steps to Obtain Refunds or Savings.** UCM will obtain prior written authorization from Client before it pursues any refunds, credits or Future Savings identified in the Findings Letter. If so authorized, UCM will make a good faith effort to pursue such refunds, credits or Future Savings. Any efforts to pursue such refunds, credits and Future Savings shall be subject to applicable laws and this Agreement. UCM's efforts to pursue refunds, credits and Future Savings (if authorized by Client) may include, but are not limited to, communicating, negotiating and dealing with utility providers (or, in the case of utility user taxes or other governmental charges, the appropriate government entity), and seeking relief from the California Public Utilities Commission in a complaint proceeding or other proceeding.
6. **Cooperation By Client.** Client will cooperate with UCM, as reasonable, in UCM's efforts to carry out the purposes and intent of this Agreement. Such cooperation will include, but not be limited to, providing information upon request by UCM concerning Client's utility expenditures, utility service and operations.
7. **UCM's Compensation.**

UCM's compensation will consist of the amounts set forth in both (a) and (b) below.

- (a) **Refunds or Credits.** If Client receives a refund or credit that was identified in the Findings Letter, then Client will pay to UCM 42% of the amount refunded or credited. Client will not be obligated to pay UCM fees for refunds or credits that are part of utility provider's routine issuance of rebates or refunds associated with its over-collection of revenues from the general customer population. The amount of the refund or credit for this purpose will include all amounts refunded or credited (including any portion attributable to interest) for any overcharges that were incurred by Client prior to the date that the overcharges no longer appeared on the Client's utility bill. Payment of UCM's 42% compensation is due within 60 days of Client's receipt of a UCM invoice.
- (b) **Future Savings.** If Client obtains Future Savings that were identified in the Findings Letter then Client will pay UCM 42% of such Future Savings that accrue during a Three-Year Savings Period. "Future Savings" is the amount by which Client's charges on its Utility Accounts are reduced as a result of a change in the billing rate, calculation, method or procedure. Future Savings will be calculated as the difference between the amount Client was billed on

its Utility Accounts during the Three-Year Savings Period, and the amount that it would have been billed on its Utility Accounts during the Three-Year Savings Period if there had been no change in its billing rate, calculation, method or procedure. The Three-Year Savings Period begins on the date that the change in the billing rate, calculation, method or procedure is first reflected on Client's utility bill (but in no case more than 18 months after the Findings Letter was sent), and ends three years thereafter. UCM will submit invoices periodically to Client for payment based on the Future Savings as they accrue. The invoices will verify (a) that Future Savings have actually been realized by Client, and (b) the amount of such Future Savings. Payment of UCM's invoices is due within 60 days of the date the invoices are received by Client. The compensation under this subparagraph will not include compensation for Future Savings that are: (a) the result of a reduction in the amount of utility usage by Client, or (b) the result of Client's utilization of a different utility supplier that provides lower cost utility service.

(c) **No Compensation for Pending Claim.** Client is not obligated to pay UCM pursuant to this paragraph for any refund, credit or Future Savings received by Client for which Client had submitted to the utility provider a written claim prior to the date of UCM's Findings Letter. However, Client is obligated to pay UCM pursuant to this paragraph for refunds, credits, or Future Savings resulting from UCM's actions, either in whole or in part, and whether or not Client knew of the basis for the refund, credit or Future Savings prior to the date of UCM's Findings Letter.

8. **Termination; Effect.** This Agreement will terminate 7 days after either party faxes a written notice of termination to the other party. Upon termination, UCM will cease all work on behalf of Client. However, if termination occurs after UCM has sent its Findings Letter to Client, then Client will remain obligated to pay UCM, pursuant to this Agreement, for any refunds, credits or Future Savings that were identified in the Findings Letter and that are thereafter obtained by Client. UCM may continue to obtain and review Client's utility billing and other information following termination in order to periodically verify whether Client has obtained a refund, credit or Future Savings that was identified in the Findings Letter.
9. **If Client Is Not Utility Customer.** By providing a copy of any utility bill to UCM, Client is thereby agreeing that the Utility Account represented by such bill will be governed by this Agreement, regardless of whether or not Client is the Utility Customer with respect to such Utility Account. For purposes of this Agreement, the Utility Customer is the entity that (i) is named on the Utility Account as reflected by the utility bill, (ii) receives the utility service on the Utility Account, (iii) pays for or is liable for the charges on the Utility Account, or (iv) is the owner of the property at which the utility service is provided on the Utility Account. If Client is not the Utility Customer for a Utility Account then, with respect to that Utility Account, Client represents that it is signing this Agreement in its capacity as agent for the Utility Customer, and as such is authorized to legally bind the Utility Customer to the terms of this Agreement. Client further agrees that the terms of this Agreement will be equally binding on both Client and Customer, that all references in this Agreement to "Client" will also be deemed to be references to the Utility Customer, and that Client and the Utility Customer will be jointly and severally liable for payment of UCM's compensation under this Agreement.
10. **No Legal Services.** Client acknowledges and understands that: (1) Only an attorney can provide legal services or advice, (2) UCM is not an attorney or law firm, and does not and will not provide legal services or advice, (3) UCM does not and will not act as an attorney for Client or any other person, (4) Nothing in this Agreement, and no act, omission or statement by UCM, or its owners or employees, will be construed to create an attorney-client relationship between UCM and Client or any other person, (5) UCM is not subject to the California Rules of Professional Conduct, which govern the conduct of attorneys, and (6) Client should consult an attorney if it wishes to receive legal services or advice.
11. **Disclosure of Information.** UCM may obtain information that pertains to Client's business, operations, or affairs, only if such information is related to, or necessary to clarify, Client's gas and electric utility charges and gas and electric utility usage. Unless specifically required to do so pursuant to a court order, or unless needed to pursue a refund or credit specifically authorized by Client, UCM shall not disclose or share any Client information with any third party without the Client's express prior written consent.
12. **Release of Claims Against UCM.** Client acknowledges and agrees that UCM has made no express or implied representation or warranty that it will be successful in obtaining any refunds, credits, or Future Savings on Client's Utility Accounts. Client hereby waives, releases and forfeits any current or future claim against UCM that is based upon or relates to any failure by UCM to identify or obtain refunds, credits, or Future Savings to which Client may be entitled, or that is based upon or relates to any services or advice provided by UCM.

13. **Representations Made By Client.** It may become necessary for Client to make certain representations to the utility provider or other entity in order obtain refunds, credits or Future Savings identified by UCM in its Findings Letter. Client hereby warrants that any such representations made by Client will be true and correct in all respects. Client understands and agrees that it is Client's responsibility, and not UCM's, to ensure that any such representations made by Client are true and correct in all respects.
14. **Late Payment.** If payment of any invoice is not made within 60 days of the date the invoice was accepted by Client, then interest will thereafter accrue at 1% per month on the outstanding balance due. An invoice is deemed accepted if the Client does not dispute any of the charges invoiced within (15) days from the date the District receives the invoice.
15. **Applicable Law.** This Agreement is executed in and intended to be performed in the State of California, and the laws of that state will govern its interpretation and effect.
16. **Venue.** Venue in any legal action arising from or related to this agreement will be San Diego County, California.
17. **Paragraph References.** A reference to a "paragraph" of this Agreement includes both the numbered paragraph, as well the subparagraphs, if any, that are part of such paragraph. Subparagraphs are designated by lower case letters (e.g., "(a)", "(b)", "(c)").
18. **Severability.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the rest of the agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
19. **Interpretation.** In construing this Agreement, no consideration shall be given to the fact or presumption that any party had a greater or lesser hand in drafting of this Agreement.
20. **Entire Agreement.** This instrument contains the entire Agreement of the parties relating to the rights granted and obligations assumed in this instrument. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by the party to be charged
21. **Signor Authorized to Bind Client.** The individual signing this agreement on behalf of Client hereby represents and warrants that he/she is authorized to sign on behalf of the Client and to legally bind Client to the terms of this Agreement.

UTILITY COST MANAGEMENT LLC	
By:	
	Signature
	PAUL KERKORIAN
	Print Name
	MANAGING MEMBER
	Title
	NOV. 2, 2009
	Date

CLIENT	
By:	
	Signature
	Print Name
	Title
	Date



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010		
SUBMITTED BY:	William E. Granger, Water Conservation Manager <i>WG</i>	W.O./G.F. NO:	N/A	DIV. NO.	All
APPROVED BY: (Chief)	Rom Sarno, Chief of Administrative Services <i>[Signature]</i>				
APPROVED BY: (Asst. GM):	German <i>[Signature]</i> Lopez, Assistant General Manager, Finance & Administration				
SUBJECT:	Adopt Ordinance 522, Amending Section 39 of the District's Code of Ordinances				

GENERAL MANAGER'S RECOMMENDATION:

That the Board adopt Ordinance 522 revising the District's Water Shortage Response Program as contained within Section 39 of the District's Code of Ordinances.

COMMITTEE ACTION: _____

Please see "Attachment A".

PURPOSE:

To adopt Ordinance 522, which updates the District's current ordinance, as outlined in the red-lined version of Section 39 of the District's Code of Ordinances.

ANALYSIS:

Section 39 of the District's Code of Ordinances was last revised in June of 2008, several months ahead of the anticipated water shortage declaration by Metropolitan Water District and the San Diego County Water Authority (Water Authority). In the 19 months since Section 39 was revised, the region has declared a voluntary level 1 water shortage, and then in July of 2009, a mandatory regional cutback of 8% went into effect for Water Authority member agencies.

Several of the changes involve language revisions which will allow the Board and staff greater flexibility in implementing future water shortage levels. If adopted, for example, drought pricing would not automatically go into effect if a Level 2 water shortage were declared. In addition, the District would

now have the option to implement some or all of the Level 1 water conservation practices, if it were to declare a Level 2 water shortage. Also, should the District declare a Level 2, it no longer states that the General Manager would establish and post a watering schedule. This language was replaced with more generic and manageable language stating that the customer can water up to three days a week and no more than 15 minutes per irrigation station between May and October and 7 minutes per station between November and April.

In addition, in order to comply with the California Urban Water Conservation Council's Water Waste Prevention Best Management Practice, the District is moving several items to be in effect at all times instead of just when a Level 1 water supply shortage is declared. These include prohibitions against washing down paved surfaces except when necessary for health or safety reasons, excessive runoff from inefficient landscape irrigation and fixing known leaks within 48 hours. Staff also recommends that two of the other items 39.03, item 3 and 4 should be in effect at all times: serving water only upon request and giving hotel guests the option to reuse their towels and linens.

Other changes made throughout Section 39 include:

- The term "drought" has been replaced with "water shortage" throughout the Section.
- It is now clear when a Level 2 and 3 water shortage should be declared. A Level 2 is to be declared if the District needs to reduce its potable demand between 11 and 20 percent. A Level 3 water shortage shall be declared if the District needs to reduce potable demand by between 21 and 40 percent.
- Additional examples of vehicles and equipment were listed within the vehicle washing section in Level 1(39.04, 5).
- At a Level 2, irrigation is not allowed during a rainstorm or forty-eight hours after one-quarter inch or more of rainfall is measured at Lindbergh Field.
- At a Level 2, homeowner's vegetable gardens and fruit trees are not held to the three day per week watering limitation.

- At a Level 3, vehicles that cannot be washed at a commercial car wash shall not be washed more frequently than once per week.

FISCAL IMPACT:



None at this time.

STRATEGIC GOAL:

Relates to objective 3.1.1.2 "Update District's Water Shortage Response Program including actions for enforcement".

LEGAL IMPACT:

None at this time.



General Manager

Attachment A - Committee Action Report

Attachment B - Ordinance 522

Attachment C - Clean version of draft Section 39

ATTACHMENT A

SUBJECT/PROJECT:	Adopt Ordinance 522, Amending Section 39 of the District's Code of Ordinances
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COMMITTEE ACTION:

The Finance, Administration and Communications Committee reviewed this item at a meeting held on December 14, 2009. The following comments were made:

- Staff is proposing amendments to Section 39 of the District's Code of Ordinances to allow greater flexibility in implementing future water shortage levels.
- Such changes include should a Level 2 alert be implemented, drought pricing would not automatically go into effect. The District would also have the option to implement some or all of the Level 1 water conservation practices when a Level 2 is declared. Additionally, the language related to the General Manager establishing and posting a watering schedule has been replaced with more generic language stating that the customer can water up to three days a week and no more than 15 minutes per irrigation station between May and October and 7 minutes per station between November and April.
- Staff is also proposing to replace the term "drought" with "water shortage" throughout Section 39.
- To comply with the California Urban Water Conservation Council's Water Waste Prevention Best Management Practice, the District is proposing to prohibit several practices at all times rather than at just a Level 1 alert. These prohibited practices include washing down paved surfaces except when necessary for health or safety reasons, excessive runoff from inefficient landscape irrigation and fixing known leaks within 48 hours. Also, serving water only upon request at restaurants and giving hotel guests the option to reuse their towels and linens will be in effect at all times.
- The amendments to Section 39 will also clarify when a Level 2 versus a Level 3 alert is declared. A Level 2 water shortage is to be declared if the District needs to

reduce its potable demand by 11 to 20%. A Level 3 is declared when the District needs to reduce potable demand by 21 to 40%.

- It was discussed that the District appears to be ahead of schedule to meet the 20% saving's goal outlined in the SBX 7 7 legislation that mandates that urban agencies such as the District must reduct its base average potable demand 20% by 2020.

Following the discussion, the committee supported staff's recommendation and presentation to the full board as an action item.

ORDINANCE NO. 522

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE OTAY WATER DISTRICT AMENDING THE
CODE OF ORDINANCES SECTION 39, WATER SHORTAGE
RESPONSE PROGRAM

BE IT ORDAINED by the Board of Directors of Otay Water
District that Section 39 shall be amended as follows

(strike-thru copy attached):

SECTION 39. WATER SHORTAGE RESPONSE PROGRAM

39.01 DECLARATION OF NECESSITY AND INTENT

(a) This Section establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of a water shortage, but at all times.

(b) This Section establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening water shortage conditions and decreasing available supplies.

(c) The Level 1 water shortage response condition practices are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by the District. Beginning at the level 2 Water Shortage Response Condition, the District may implement water shortage pricing. When a water shortage response Level 2 condition is declared, all conservation practices and water-use restrictions may become mandatory and increasingly restrictive in order to attain escalating conservation goals.

(d) During a Water Shortage Response Level 3 condition or higher, the water conservation practices and water use

restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in Section 72 of this ordinance.

39.02 DEFINITIONS APPLICABLE TO THE PROGRAM

(a) The following words and phrases whenever used in this Section shall have the meaning defined in this sub-section:

1. "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

2. "Water Authority" means the San Diego County Water Authority.

3. "DMP" means the Water Authority's Drought Management Plan in existence on the effective date of this Section and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.

4. "Metropolitan" means the Metropolitan Water District of Southern California.

5. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.

APPLICATION

- (a) The provisions of this Section apply to any person in the use of any water provided by the District.
- (b) This Section is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any storm water ordinances and storm water management plans.
- (c) Nothing in this Section is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.
- (d) The provisions of this Section do not apply to use of water from private wells or to recycled water.
- (e) Nothing in this Section shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the District is subject to this Section in the use of the other water.

At all times, the following practices shall be in effect:

1. No washing down of paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
2. Prevent water waste resulting from inefficient irrigation, such as runoff or overspray. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
3. Serve and refill water in restaurants and other food service establishments only upon request.

4. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
5. Repair all water leaks within forty-eight hours (48) of notification by the District unless other arrangements are made with the General Manager.

39.04 WATER SHORTAGE RESPONSE LEVEL 1 - SUPPLY WATCH
CONDITION

(a) A Water Shortage Response Level 1 condition is also referred to as a "Supply Watch" condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to water shortage or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Level 1 and take action to implement the Level 1 conservation practices identified in this Section.

(b) During a Level 1 condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. The same water conservation practices may become mandatory if the District declares a Level 2 condition:

1. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Customers are to water no more than three days a week using the suggested watering schedule as found on the District's web page. New plantings and newly seeded areas are exempt for 30 days.

2. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

3. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery

propagation beds is permitted at any time. Watering of livestock is permitted at any time.

4. Use re-circulated water to operate ornamental fountains.

5. Wash vehicles, including but not limited to motorcycles, farm equipment, trailers, boats and boat engines and motorhomes using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Vehicle washing is limited to once per week.

6. Use recycled or non-potable water for construction purposes when available.

39.05 WATER SHORTAGE RESPONSE LEVEL 2 - SUPPLY ALERT
CONDITION

(a) A Water Shortage Response Level 2 condition is also referred to as a "Supply Alert" condition. A Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by water shortage or other reduction in supplies, a consumer demand reduction of 11 to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Level 2 condition and implement the Level 2 conservation practices identified in this section of the ordinance. The District may decide to implement some or all of the Level 1 practices.

(b) All persons using District water shall make every effort to comply with Level 1 water conservation practices during a Level 2, and also to comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) days per week. This section shall not apply to homeowner's vegetable gardens, fruit trees, commercial growers, or nurseries.

2. Limit lawn watering and landscape irrigation using sprinklers to no more than fifteen (15) minutes per watering station per day. During the months of November through April, landscape irrigation shall not exceed seven (7) minutes per watering station per assigned day.

Watering times may need to be shortened to avoid run-off. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems, rotating sprinkler nozzles and stream rotor sprinklers.

3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

4. Irrigation is not allowed during a rainstorm and for forty-eight hours after one-quarter inch or more of rainfall is measured at Lindbergh Field.

39.06 WATER SHORTAGE RESPONSE LEVEL 3 - SUPPLY CRITICAL CONDITION

(a) A Water Shortage Response Level 3 condition is also referred to as a "Supply Critical" condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by water shortage or other reduction of supplies, a consumer demand reduction of between 21 and 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Level 3 condition and implement the Level 3 conservation practices identified in this Section.

(b) All persons using District water shall comply with Level 1 and Level 2 water conservation practices during a Level 3 condition and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries.

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a water shortage response level under this Section.

4. Stop operating non-residential ornamental fountains or similar decorative water features unless recycled water is used.

5. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems. If a commercial car wash cannot accommodate the vehicle because of the vehicle size or type, such as RVs, horse trailers, boats and commercial vehicles, customers will be allowed to wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system.

(c) Upon the declaration of a Level 3 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; or

2. The project is necessary to protect the public's health, safety, and welfare; or

3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted.

(d) Upon the declaration of a Level 3 condition, the District will suspend consideration of annexations to its service area.

(e) The District may establish a water allocation for property served by the District using a method that takes into consideration the implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Section.

39.07 WATER SHORTAGE RESPONSE LEVEL 4 - SUPPLY EMERGENCY
CONDITION

(a) A Water Shortage Response Level 4 condition is also referred to as a "Supply Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40 percent in order for the District to have maximum supplies available to meet anticipated demands. The District shall declare a Level 4 in the manner and on the grounds provided in California Water Code section 350.

(b) All persons using District water shall comply with conservation measures required during Level 1, Level 2, and Level 3 conditions and shall also comply with the following additional mandatory conservation measures:

1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. *This restriction shall not apply to the following categories of use unless the District has determined that*

recycled water is available and may be lawfully applied to the use.

A. Maintenance of trees and shrubs that are watered on the same schedule as noted in the Level 3 Condition, by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

C. Maintenance of existing landscaping for erosion control;

D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under the District's Level 3 Condition;

F. Watering of livestock; and

G. Public works projects and actively irrigated environmental mitigation projects.

2. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the District.

(c) The District may establish a water allocation for property served by the District. If the District establishes water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of

the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of any provision of this Section.

39.08 CORRELATION BETWEEN DROUGHT MANAGEMENT PLAN (DMP) AND WATER SHORTAGE RESPONSE LEVELS

(a) The correlation between the Water Authority's DMP stages and the District's water shortage response levels identified in this Section of the Code of Ordinance is described herein. Under DMP Stage 1, the District would implement Water Shortage Response Level 1 actions. Under DMP Stage 2, the District would implement Water Shortage Response Level 1 or Level 2 actions. Under DMP Stage 3, the District would implement Water Shortage Response Level 2, Level 3, or Level 4 actions.

(b) The water shortage response levels identified in this Section correspond with the Water Authority DMP as identified in the following table:

Water Shortage Response Levels	Use Restrictions	Conservation Target	DMP Stage
1 - Supply Watch	Voluntary	Up to 10%	Stage 1 or 2
2 - Supply Alert	Mandatory	11 to 20%	Stage 2 or 3
3 - Supply Critical	Mandatory	21 to 40%	Stage 3
4 - Supply Emergency	Mandatory	Above 40%	Stage 3

39.09 PROCEDURES FOR DETERMINATION AND NOTIFICATION OF WATER SHORTAGE RESPONSE LEVEL

(a) The existence of a Water Shortage Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the District and provided to the District Board of Directors. The General Manager may publish a notice of the determination of existence of Water Shortage Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District. The District will also post notice of the condition on their website.

(b) The existence of Water Shortage Response Level 2 or Level 3 conditions may be declared by resolution of the District Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Water Shortage Response Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices.

(c) The existence of a Water Shortage Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 350 to 352 as note below:

*350. The governing body of a distributor of a public **water** supply, whether publicly or privately owned and including a mutual **water** company, may declare a **water** shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of **water** consumers cannot be satisfied without depleting the **water** supply of the distributor to the extent that there would be insufficient **water** for human consumption, sanitation, and fire protection.*

*351. except in event of a breakage or failure of a dam, pump, Pipe line or conduit causing an immediate emergency, the declaration shall be made only after a public hearing at which consumers of such **water** supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to said governing board.*

*352. Notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government **Code** at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the **water** supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.*

The mandatory conservation measures applicable to Water Shortage Response Level 4 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(d) The District Board of Directors may declare an end to a Water Shortage Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Otay Water District at a regular meeting duly held this 6th day of January, 2010, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

President

ATTEST:

District Secretary

SECTION 39. DROUGHT-WATER SHORTAGE RESPONSE CONSERVATION PROGRAM

39.01 DECLARATION OF NECESSITY AND INTENT

(a) This Section establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of ~~drought~~ a water shortage, but at all times.

(b) This Section establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of ~~drought response~~ actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening ~~drought-water shortage~~ conditions and decreasing available supplies.

(c) The Level 1 ~~drought-water shortage~~ response condition ~~measures-practices~~ are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by the District. Beginning at the level 2 ~~drought-Water Shortage~~ Response Condition, the District ~~will begin to may~~ implement ~~drought-water shortage~~ pricing. ~~When a~~ During drought water shortage response condition-Levels 2 condition is declared, all conservation ~~measures-practices~~ and water-use restrictions ~~are-may become~~ mandatory and ~~become~~ increasingly restrictive in order to attain escalating conservation goals.

(d) During a ~~Drought-Water Shortage~~ Response Level 3 condition or higher, the water conservation ~~measures practices~~ and water use restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in Section 72 of this ordinance.

DEFINITIONS APPLICABLE TO THE PROGRAM

(a) The following words and phrases whenever used in this Section shall have the meaning defined in this subsection:

1. "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

2. "Water Authority" means the San Diego County Water Authority.

3. "DMP" means the Water Authority's Drought Management Plan in existence on the effective date of this Section and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.

4. "Metropolitan" means the Metropolitan Water District of Southern California.

5. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.

39.03 APPLICATION

(a) The provisions of this Section apply to any person in the use of any water provided by the District.

——(b) This Section is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any storm water ordinances and storm water management plans.

——(c) Nothing in this Section is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.

(d) The provisions of this Section do not apply to use of water from private wells or to recycled water.

(e) ~~(e)~~—Nothing in this Section shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the District is subject to this Section in the use of the other water.

At all times, the following practices shall be in effect:

1. No washing down of paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
2. Prevent water waste resulting from inefficient irrigation, such as runoff or

overspray. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

3. Serve and refill water in restaurants and other food service establishments only upon request.
4. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
5. Repair all water leaks within forty-eight hours (48) of notification by the District unless other arrangements are made with the General Manager.

39.04 DROUGHT-WATER SHORTAGE RESPONSE LEVEL 1 - DROUGHT SUPPLY WATCH CONDITION

(a) A Drought-Water Shortage Response Level 1 condition is also referred to as a "Drought-Supply Watch" condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to water shortages~~drought~~ or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Drought-Response Level 1 and take action to implement the Level 1 conservation practices identified in this Section.

(b) During a Level 1 Drought-Watch-condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. The same water conservation practices may become mandatory if the District declares a Level 2 Drought-Alert-condition:

1. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Customers are to water no more than three days a week using the suggested watering schedule as found on the

District's web page. New plantings and newly seeded areas are exempt for 30 days. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.

2. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

3. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Customers are encouraged to water no more than three days a week using the suggested watering schedule as found on the District's web page. New plantings and newly seeded areas are exempt for 30 days. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

4. Use re-circulated water to operate ornamental fountains. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

5. Wash vehicles, including but not limited to motorcycles, farm equipment, trailers, boats and boat engines and motorhomes using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Vehicle washing is limited to once per week. Irrigate

~~nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.~~

~~6. Use recycled or non-potable water for construction purposes when available. Use re-circulated water to operate ornamental fountains.~~

~~7. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.~~

~~8. Serve and refill water in restaurants and other food service establishments only upon request.~~

~~9. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.~~

~~10. Repair all water leaks within forty-eight hours (48) of notification by the District unless other arrangements are made with the General Manager.~~

~~11. Use recycled or non-potable water for construction purposes when available.~~

39.05 DROUGHT WATER SHORTAGE RESPONSE LEVEL 2 - DROUGHT SUPPLY ALERT CONDITION

(a) A Drought Water Shortage Response Level 2 condition is also referred to as a "Drought Supply Alert" condition. A Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by water shortage/drought or other reduction in supplies, a consumer demand reduction of 11 up to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board

of Directors ~~shall~~ may declare the existence of a ~~Drought Response~~ Level 2 condition and implement the Level 2 conservation ~~measures~~ practices identified in this section of the ordinance. The District may decide to implement some or all of the Level 1 practices.

(b) All persons using District water shall make every effort to comply with Level 1 ~~Drought Watch~~ water conservation practices during a Level 2 ~~Drought Alert~~, and also to comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) ~~assigned~~ days per week ~~on a schedule established by the General Manager and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District.~~ This section shall not apply to homeowner's vegetable gardens, fruit trees, commercial growers, or nurseries.

2. Limit lawn watering and landscape irrigation using sprinklers to no more than fifteen (15) minutes per watering station per ~~assigned~~ day. During the months of November through April, landscape irrigation shall not exceed seven (7) minutes per water watering station per assigned day. Watering times may need to be shortened to avoid run-off. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems, rotating sprinkler nozzles and stream rotor sprinklers.

~~3.~~ 3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

3.—Irrigation is not allowed during a rainstorm and for forty-eight hours after ~~1/4"~~ one-quarter -inch or more of rainfall is measured at Lindbergh Field.

4.

39.06 ~~DROUGHT-WATER SHORTAGE RESPONSE LEVEL 3 - DROUGHT SUPPLY CRITICAL CONDITION~~

(a) A ~~Drought-Water Shortage~~ Response Level 3 condition is also referred to as a "~~Drought-Supply Critical~~" condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by water shortage~~drought~~ or other reduction of supplies, a consumer demand reduction of ~~up to~~between 21 and 40 percent ~~are~~is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors ~~shall~~may declare the existence of a ~~Drought-Response~~ Level 3 condition and implement the Level 3 conservation ~~measures~~practices identified in this Section.

(b) All persons using District water shall comply with Level 1 ~~Drought-Watch~~ and Level 2 ~~Drought-Alert~~ water conservation practices during a Level 3 ~~Drought-Critical~~ condition and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries.

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a

water shortage~~drought~~ response level under this Section.

4. Stop operating non-residential ornamental fountains or similar decorative water features unless recycled water is used.

5. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems. If a commercial car wash cannot accommodate the vehicle because of the vehicle size or type, such as RVs, horse trailers, boats and commercial vehicles, customers will be allowed to wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system.

(c) Upon the declaration of a ~~Drought Response~~-Level 3 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; or

2. The project is necessary to protect the public's health, safety, and welfare; or

3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted.

(d) Upon the declaration of a ~~Drought Response~~-Level 3 condition, the District will suspend consideration of annexations to its service area.

(e) The District may establish a water allocation for property served by the District using a method that takes into consideration ~~of~~ the implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Section.

39.07 ~~DROUGHT-WATER SHORTAGE RESPONSE LEVEL 4 - DROUGHT SUPPLY EMERGENCY CONDITION~~

(a) A ~~Drought-Water Shortage~~ Response Level 4 condition is also referred to as a "~~SupplyDrought~~ Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40 percent in order for the District to have maximum supplies available to meet anticipated demands. The District shall declare a ~~Drought-Emergency-Level 4~~ in the manner and on the grounds provided in California Water Code section 350.

(b) All persons using District water shall comply with conservation measures required during Level 1-~~Drought Watch~~, Level 2-~~Drought-Alert~~, and Level 3 ~~Drought-Critical~~ conditions and shall also comply with the following additional mandatory conservation measures:

1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. *This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use.*

A. Maintenance of trees and shrubs that are watered on the same schedule as noted in the

Level 3 ~~Drought-Critical~~ Condition, by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

C. Maintenance of existing landscaping for erosion control;

D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under the District's Level 3 ~~Drought-Critical~~ Condition;

F. Watering of livestock; and

G. Public works projects and actively irrigated environmental mitigation projects.

2. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the District.

(c) The District may establish a water allocation for property served by the District. If the District establishes water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to

any other remedy or penalty that may be imposed for violation of any provision of this Section.

39.08 CORRELATION BETWEEN DROUGHT MANAGEMENT PLAN (DMP) AND ~~DROUGHT-WATER SHORTAGE~~ RESPONSE LEVELS

(a) The correlation between the Water Authority's DMP stages and the District's drought-water shortage response levels identified in this Section of the Code of Ordinance is described herein. Under DMP Stage 1, the District would implement Drought-Water Shortage Response Level 1 actions. Under DMP Stage 2, the District would implement Drought Water Shortage Response Level 1 or Level 2 actions. Under DMP Stage 3, the District would implement Drought-Water Shortage Response Level 2, Level 3, or Level 4 actions.

(b) The drought-water shortage response levels identified in this Section correspond with the Water Authority DMP as identified in the following table:

<u>Drought-Water Shortage Response Levels</u>	<u>Use Restrictions</u>	<u>Conservation Target</u>	<u>DMP Stage</u>
1 - <u>Drought-Supply Watch</u>	Voluntary	Up to 10%	Stage 1 or 2
2 - <u>Drought-Supply Alert</u>	Mandatory	Up-11 to 20%	Stage 2 or 3
3 - <u>Drought-Supply Critical</u>	Mandatory	Up-21 to 40%	Stage 3
4 - <u>Drought-Supply Emergency</u>	Mandatory	Above 40%	Stage 3

39.09 PROCEDURES FOR DETERMINATION AND NOTIFICATION OF ~~DROUGHT-WATER SHORTAGE~~ RESPONSE LEVEL

(a) The existence of a Drought-Water Shortage Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the District and provided to the District Board of Directors. The General Manager may publish a notice of the determination of existence of Drought-Water Shortage Response Level 1 condition in one or more newspapers, including a newspaper of general

circulation within the District. The District will also post notice of the condition on their website.

(b) The existence of Drought-Water Shortage Response Level 2 or Level 3 conditions may be declared by resolution of the District Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Drought Water Shortage Response Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices.

(c) The existence of a Drought-Water Shortage Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 350 to 352 as note below:

*350. The governing body of a distributor of a public **water** supply, whether publicly or privately owned and including a mutual **water** company, may declare a **water** shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of **water** consumers cannot be satisfied without depleting the **water** supply of the distributor to the extent that there would be insufficient **water** for human consumption, sanitation, and fire protection.*

*351. except in event of a breakage or failure of a dam, pump, Pipe line or conduit causing an immediate emergency, the declaration shall be made only after a public hearing at which consumers of such **water** supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to said governing board.*

*352. Notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government **Code** at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the **water** supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.*

The mandatory conservation measures applicable to Drought Water Shortage Response Level 4 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for

publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(d) The District Board of Directors may declare an end to a Drought-Water Shortage Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.

SECTION 39. WATER SHORTAGE RESPONSE PROGRAM

39.01 DECLARATION OF NECESSITY AND INTENT

(a) This Section establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of a water shortage, but at all times.

(b) This Section establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening water shortage conditions and decreasing available supplies.

(c) The Level 1 water shortage response condition practices are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by the District. Beginning at the level 2 Water Shortage Response Condition, the District may implement water shortage pricing. When a water shortage response Level 2 condition is declared, all conservation practices and water-use restrictions may become mandatory and increasingly restrictive in order to attain escalating conservation goals.

(d) During a Water Shortage Response Level 3 condition or higher, the water conservation practices and water use restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in Section 72 of this ordinance.

39.02 DEFINITIONS APPLICABLE TO THE PROGRAM

(a) The following words and phrases whenever used in this Section shall have the meaning defined in this subsection:

1. "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

2. "Water Authority" means the San Diego County Water Authority.

3. "DMP" means the Water Authority's Drought Management Plan in existence on the effective date of this Section and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.

4. "Metropolitan" means the Metropolitan Water District of Southern California.

5. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.

39.03 APPLICATION

(a) The provisions of this Section apply to any person in the use of any water provided by the District.

(b) This Section is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any storm water ordinances and storm water management plans.

(c) Nothing in this Section is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.

(d) The provisions of this Section do not apply to use of water from private wells or to recycled water.

(e) Nothing in this Section shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the District is subject to this Section in the use of the other water.

At all times, the following practices shall be in effect:

1. No washing down of paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
2. Prevent water waste resulting from inefficient irrigation, such as runoff or overspray. Similarly, stop water flows onto non-targeted areas, such as adjacent

property, non-irrigated areas, hardscapes, roadways, or structures.

3. Serve and refill water in restaurants and other food service establishments only upon request.
4. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
5. Repair all water leaks within forty-eight hours (48) of notification by the District unless other arrangements are made with the General Manager.

39.04 WATER SHORTAGE RESPONSE LEVEL 1 - SUPPLY WATCH
CONDITION

(a) A Water Shortage Response Level 1 condition is also referred to as a "Supply Watch" condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to water shortage or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Level 1 and take action to implement the Level 1 conservation practices identified in this Section.

(b) During a Level 1 condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. The same water conservation practices may become mandatory if the District declares a Level 2 condition:

1. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Customers are to water no more than three days a week using the suggested watering schedule as found on the District's web page. New plantings and newly seeded areas are exempt for 30 days.

2. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

3. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

4. Use re-circulated water to operate ornamental fountains.

5. Wash vehicles, including but not limited to motorcycles, farm equipment, trailers, boats and boat engines and motorhomes using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Vehicle washing is limited to once per week.

6. Use recycled or non-potable water for construction purposes when available.

39.05 WATER SHORTAGE RESPONSE LEVEL 2 - SUPPLY ALERT
CONDITION

(a) A Water Shortage Response Level 2 condition is also referred to as a "Supply Alert" condition. A Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by water shortage or other reduction in supplies, a consumer demand reduction of 11 to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Level 2 condition and implement the Level 2

conservation practices identified in this section of the ordinance. The District may decide to implement some or all of the Level 1 practices.

(b) All persons using District water shall make every effort to comply with Level 1 water conservation practices during a Level 2, and also to comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) days per week. This section shall not apply to homeowner's vegetable gardens, fruit trees, commercial growers, or nurseries.

2. Limit lawn watering and landscape irrigation using sprinklers to no more than fifteen (15) minutes per watering station per day. During the months of November through April, landscape irrigation shall not exceed seven (7) minutes per water watering station per assigned day. Watering times may need to be shortened to avoid run-off. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems, rotating sprinkler nozzles and stream rotor sprinklers.

3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

4. Irrigation is not allowed during a rainstorm and for forty-eight hours after one-quarter inch or more of rainfall is measured at Lindbergh Field.

39.06 WATER SHORTAGE RESPONSE LEVEL 3 - SUPPLY CRITICAL CONDITION

(a) A Water Shortage Response Level 3 condition is also referred to as a "Supply Critical" condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by

water shortage or other reduction of supplies, a consumer demand reduction of between 21 and 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Level 3 condition and implement the Level 3 conservation practices identified in this Section.

(b) All persons using District water shall comply with Level 1 and Level 2 water conservation practices during a Level 3 condition and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries.

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a water shortage response level under this Section.

4. Stop operating non-residential ornamental fountains or similar decorative water features unless recycled water is used.

5. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems. If a commercial car wash cannot accommodate the vehicle because of the vehicle size or type, such as RVs, horse trailers, boats and commercial vehicles, customers will be

allowed to wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system.

(c) Upon the declaration of a Level 3 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; or

2. The project is necessary to protect the public's health, safety, and welfare; or

3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted.

(d) Upon the declaration of a Level 3 condition, the District will suspend consideration of annexations to its service area.

(e) The District may establish a water allocation for property served by the District using a method that takes into consideration the implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in

excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Section.

39.07 WATER SHORTAGE RESPONSE LEVEL 4 - SUPPLY
EMERGENCY CONDITION

(a) A Water Shortage Response Level 4 condition is also referred to as a "Supply Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40 percent in order for the District to have maximum supplies available to meet anticipated demands. The District shall declare a Level 4 in the manner and on the grounds provided in California Water Code section 350.

(b) All persons using District water shall comply with conservation measures required during Level 1, Level 2, and Level 3 conditions and shall also comply with the following additional mandatory conservation measures:

1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. *This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use.*

A. Maintenance of trees and shrubs that are watered on the same schedule as noted in the Level 3 Condition, by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

C. Maintenance of existing landscaping for erosion control;

D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under the District's Level 3 Condition;

F. Watering of livestock; and

G. Public works projects and actively irrigated environmental mitigation projects.

2. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the District.

(c) The District may establish a water allocation for property served by the District. If the District establishes water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of any provision of this Section.

39.08 CORRELATION BETWEEN DROUGHT MANAGEMENT PLAN (DMP) AND WATER SHORTAGE RESPONSE LEVELS

(a) The correlation between the Water Authority's DMP stages and the District's water shortage response levels identified in this Section of the Code of Ordinance is described herein. Under DMP Stage 1, the District would implement Water Shortage Response Level 1 actions. Under DMP Stage 2, the District would implement Water Shortage

Response Level 1 or Level 2 actions. Under DMP Stage 3, the District would implement Water Shortage Response Level 2, Level 3, or Level 4 actions.

(b) The water shortage response levels identified in this Section correspond with the Water Authority DMP as identified in the following table:

Water Shortage Response Levels	Use Restrictions	Conservation Target	DMP Stage
1 - Supply Watch	Voluntary	Up to 10%	Stage 1 or 2
2 - Supply Alert	Mandatory	11 to 20%	Stage 2 or 3
3 - Supply Critical	Mandatory	21 to 40%	Stage 3
4 - Supply Emergency	Mandatory	Above 40%	Stage 3

39.09 PROCEDURES FOR DETERMINATION AND NOTIFICATION OF WATER SHORTAGE RESPONSE LEVEL

(a) The existence of a Water Shortage Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the District and provided to the District Board of Directors. The General Manager may publish a notice of the determination of existence of Water Shortage Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District. The District will also post notice of the condition on their website.

(b) The existence of Water Shortage Response Level 2 or Level 3 conditions may be declared by resolution of the District Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Water Shortage Response Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices.

(c) The existence of a Water Shortage Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 350 to 352 as note below:

*350. The governing body of a distributor of a public **water** supply, whether publicly or privately owned and including a mutual **water** company, may declare a **water** shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of **water** consumers cannot be satisfied without depleting the **water** supply of the distributor to the extent that there would be insufficient **water** for human consumption, sanitation, and fire protection.*

*351. except in event of a breakage or failure of a dam, pump, Pipe line or conduit causing an immediate emergency, the declaration shall be made only after a public hearing at which consumers of such **water** supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to said governing board.*

*352. Notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government **Code** at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the **water** supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.*

The mandatory conservation measures applicable to Water Shortage Response Level 4 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(d) The District Board of Directors may declare an end to a Water Shortage Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.



AGENDA ITEM 19d

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 6, 2010
SUBMITTED BY:	Geoffrey Stevens Chief Information Officer	W.O./G.F. NO:	DIV. NO. ALL
APPROVED BY: (Chief)			
APPROVED BY: (Asst. GM):	German Alvarez, Assistant General Manager, Finance and Administration		
SUBJECT:	Asset Management FY 2010 Contract Approvals		

GENERAL MANAGER'S RECOMMENDATION:

That the Board:

1. Amend the existing Westin Engineering contract by \$110,000 to increase its amount from \$224,280 to \$334,280 and increase its scope to include the asset management data collection efforts.
2. Authorize the General Manager to negotiate and enter into a contract with Spatial Wave for \$80,000 to cover the cost of software development and modification to the Field Mapplet application and related software to accommodate asset management process improvements.

COMMITTEE ACTION: _____

Please see "Attachment A".

PURPOSE:

To authorize the purchase of services necessary to support the asset management project through Fiscal Year 2010 as identified in the District's Strategic Plan.

ANALYSIS:

Developing and improving the District's ability to manage assets is becoming increasingly critical to the District's future success and fiscal health. While the book value of District assets is approximately \$551 million, that does not represent the replacement cost - which may be as high as \$750 million. The asset management project was initiated in FY 2009 and will likely continue through FY 2012. Currently staff has developed an overall asset management plan, and done detailed work to determine the types of asset information we currently have and where it is located, from a systems perspective.

Westin Engineering

On January 2, 2008, the Board authorized a contract with Westin Engineering in the amount of \$194,280 to provide professional services for the planning of the asset management project.

Phase 2 of the project - developing an asset management pilot project and determining how best to actually accumulate and benefit from asset related information is underway.

On October 2009, under the General Manager's authority, a \$30,000 change order to the contract was issued to begin Phase 2 of the asset management project. The change order was issued with the understanding that the District would return to the Board and present the complete scope of the project and efforts to be completed with the funding provided in the FY 2010 budget.

The purpose of this report is to obtain Board approval to amend the Westin contract to increase it from the amended amount of \$224,280 to \$334,280 and increase its scope to include all asset definition tasks required to complete the District's full asset inventory.

To date, staff has completed the definition of data requirements and is in the latter stages of the pilot program to verify the quality and quantity of data required for a small area of the District (Copp Lane Pump Station and Disinfection Facility). The District is pleased with the quality and progress of the services and expertise that Westin has provided. Once the pilot is complete, the total data requirements for the District can be accurately scoped and estimated.

The recommended amendment will cover the costs to finish the pilot and prepare detailed estimates of the total cost to obtain District-wide asset data. The pilot project provides a verified list of specific assets and then defines the particular attribute information required to make asset management decisions. Once completed, these pilot results will be applied to the District as a whole and then detailed specifications for asset related tasks can be defined and

properly scoped and estimated. This is a significant undertaking given the over half billion dollars in assets managed by the District.

Spatial Wave

In union with Westins' work, the District requires that the data systems and architectures be modified to support these modifications required to the District's software. It is recommended that a firm specializing in this work be obtained.

The District has anticipated that the GIS and related systems would need modification to execute asset management. Consequently, we have previously acquired the Field Mapplet Software from Spatial Wave -- which is designed to link the District's field applications and hardware (Toughbook laptops) to these back end data systems like GIS and our work order system. As the type and structure of the data is known, the task to modify our databases in GIS and other data access tools (primarily Field Mapplet) to store and retrieve that data can then be achieved.

In order to implement the products being developed through the asset management project, Spatial Wave's software must be modified. The software is proprietary to the manufacturer and the manufacturer has provided a fixed price bid of \$80,000 to accomplish this required task. Staff has evaluated the proposed bid and determined that it is fair and reasonable and is recommending to the Board to authorize the General Manager to enter in to a contract with Spatial Wave as identified above.

FISCAL IMPACT:

RUB

Expenditures to date total \$38,000. The total budget for P2486, as approved in the FY 2010 budget, is \$800,000. Total expenditures, outstanding commitments, and the proposed action for \$190,000 are within the budgeted amount. The Project Manager has determined the CIP budgets are sufficient to support the project.

Finance has determined that funding will be available for CIP P2486. Funding for CIP P2009 will be 100% Replacement.

STRATEGIC GOAL:

These items are in support of the District's Strategic Plan:

- Develop and implement an Asset Management Program Plan to extend useful life of capital assets.
- Develop optimized field work processing using integrated technology
- Develop information systems support for asset management program. Specifically the strategy of Business Efficiency.

LEGAL IMPACT:

None.



General Manager

Attachment A - Committee Action Report

ATTACHMENT A

SUBJECT/PROJECT:	Asset Management FY 2010 Contract Approvals
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COMMITTEE ACTION:

The Finance, Administration and Communications Committee reviewed this item at a meeting held on December 14, 2009. The following comments were made:

- Staff is requesting that the board authorize the purchase of services necessary to support the activities of the Asset Management Project though Fiscal Year 2010.
- The book value of Otay's assets is about \$551 million. The cost to replace these assets is approximately \$750 million. In the future, as new development declines and developer funding decreases (approximately 10 to 15 years), the funding of the replacement of the District's assets will be supported through rates. Thus, the District's ability to efficiently manage assets will be essential to the District's future success and fiscal health. The Asset Management Project will develop and improve the District's ability to manage assets.
- The key components to asset management are the assets themselves and the District's work practice or servicing/maintenance of these assets. Specifically, the District must decide the maintenance needs of an asset, when the maintenance should be done and what is the most efficient way of accomplishing the servicing/maintenance.
- The District completed Phase 1 of the Asset Management Project in Fiscal Year 2009 which involved developing a vision and plan for the project, assessing data requirements and creating an asset inventory (this portion of Phase I is still in progress).
- In October 2009, under the General Manager's authority, a \$30,000 change order to the Westin Engineering contract was issued to begin Phase II of the Asset Management Project in Fiscal Year 2010.
- Phase II would include the continuation of two pilots: creating the asset inventory (assembling information

about each District asset) and a review of business processes. Phase II will also include the expansion of the asset inventory pilot to the entire District (Westin) and the business process review pilot to critical asset practices, modifying the asset management software (Spatial Wave), developing critical rankings for the entire systems and scoping the final data collection efforts. It was discussed that as more data is accumulated about the District's assets, staff will acquire a good understanding of the maintenance/replacement pattern for each asset. The goal is to incorporate asset management planning into the District's daily work routine.

- The next steps will be to complete the pilots and refine tools and methodologies through what was learned from the pilots. Staff anticipates presenting Phase III of the Asset Management Project for the board's consideration in July 2010.
- It was indicated that Eastern Municipal Water District, SDG&E and CWA also have asset management systems.
- Staff is requesting that the board authorize funding to increase Westin Engineering's contract by \$110,000 and approve a contract with Spatial Wave for \$80,000 to cover the cost of software development and modification to the Field Mapplet application and related software to complete the Fiscal Year 2010 Asset Management Project activities.

Following completion of the discussion, the committee supported staffs' recommendation and presentation to the full board as an action item.