

OTAY WATER DISTRICT  
ENGINEERING, OPERATIONS & WATER RESOURCES COMMITTEE MEETING  
and  
SPECIAL MEETING OF THE BOARD OF DIRECTORS

2554 SWEETWATER SPRINGS BOULEVARD  
SPRING VALLEY, CALIFORNIA  
Board Room

**Tuesday**  
**April 24, 2007**  
**4:00 P.M.**

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

**AGENDA**

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

**INFORMATION / ACTION ITEMS**

3. AWARD A CONSTRUCTION CONTRACT TO M&M GENERAL ENGINEERING CONTRACTORS, INC. IN THE AMOUNT OF \$128,650 FOR THE FACILITIES PAVEMENT PROGRAM TELEGRAPH CANYON ROAD PROJECT (JUYBARI) [5 minutes]
4. AWARD A PROFESSIONAL VALUE ENGINEERING AND CONSTRUCTABILITY REVIEW SERVICES CONTRACT TO HARRIS & ASSOCIATES FOR THE 36-INCH PIPELINE, SAN DIEGO COUNTY WATER AUTHORITY OTAY FCF NO. 14 TO THE REGULATORY SITE PROJECT FOR AN AMOUNT NOT TO EXCEED \$107,138 (JUYBARI) [5 minutes]
5. APPROVE ORDINANCE NO. 511 AMENDING SECTION 26, WATER RECYCLING PLAN AND IMPLEMENTING PROCEDURES, OF THE DISTRICT'S CODE OF ORDINANCES (PORRAS / STALKER / BANUELOS) [10 minutes]
6. ADJOURNMENT

BOARD MEMBERS ATTENDING:

Jose Lopez, Chair  
Gary Croucher

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 that 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 April 19, 2007 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 24 hours in advance of the meeting of the Board of Directors (Government Code Section §54954.2).

Executed at Spring Valley, California on April 19, 2007.

  
\_\_\_\_\_  
Connie Rathbone, Assistant District Secretary

# AGENDA ITEM 3



## STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	May 2, 2007	
SUBMITTED BY:	Hossein Juybari <i>HJ</i> Senior Civil Engineer	PROJECT/ SUBPROJECT	P1270 007000	DIV. NO. 1, 4
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:	Award a Construction Contract for the Facilities Pavement Program Telegraph Canyon Road Project			

### GENERAL MANAGER'S RECOMMENDATION:

That the Board award a construction contract to M & M General Engineering Contractors, Inc. (M & M) in the amount of \$128,650 for the Facilities Pavement Program Telegraph Canyon Road Project. See Exhibit A for project location.

### COMMITTEE ACTION:

Please see Attachment A.

### PURPOSE:

To obtain Board authorization to award a construction contract for the Facilities Pavement Program Telegraph Canyon Road Project.

### ANALYSIS:

The Facilities Pavement Program Telegraph Canyon Road Project, pavement rehabilitation, is needed to repair various spot locations along Telegraph Canyon Road, between Medical Center Road on the West and La Media Road on the East. These repair locations are portions of the Telegraph Canyon Road Recycled Pipeline Project that were not completed. These locations were caused by potholing to locate and repair leaks on the recycled water main pipeline.

The Otay Water District (District) sent a proposal letter to the City of Chula Vista (City) dated February 25, 2003 requesting that they consider the possibility of a cash payment to fund the required roadway repair work as part of their annual pavement. This would have allowed the City to perform the work by any means it deemed appropriate. It took more than two years for the City to respond to the District's original proposal and they requested that the District complete the roadway patching along Telegraph Canyon Road on its own. The District coordinated with City staff and scheduled a meeting to discuss the scope of work and the repair approach.

District staff developed the contract documents and the project was advertised for bid on the District's website and with the following publications:

Date of Advertisement	Publication
2/28/07 to 4/3/07	Bid America
3/1/07	San Diego Tribune
3/2/07 - 4/3/07	San Diego Daily Transcript

Bids were publicly opened on Tuesday, April 3, 2007 with the following results:

**ENGINEER'S ESTIMATE**

**\$136,412.93**

CONTRACTOR

TOTAL BID

M & M General Engineering, Inc.  
 Frank & Son Paving, Inc.  
 J.D. Paving, Inc.  
 Kirk Paving  
 Zondiros Corporation

\$128,650.00  
 \$131,500.00  
 \$147,230.75  
 \$152,331.60  
 \$174,000.00

Staff reviewed the bids submitted for conformance with the contract requirements and determined that M & M was the lowest responsive and responsible bidder. M & M holds a General Engineering Class A Contractor's License which expires on March 30, 2009. Reference checks indicated an excellent performance record on similar projects and that all agencies contacted would hire M & M for future projects. Per the public competitive bidding process, staff recommends award of the contract to M & M in the amount of \$128,650.00.

Staff recommends approval of this contract in order to complete the roadway repair along Telegraph Canyon Road.

**FISCAL IMPACT:**



The Facilities Pavement Program is an on-going maintenance effort in the District. As such, these expenditures are funded in the

operating budget. The budget for the Facilities Pavement Program (P1270) for FY'07 is \$160,000.00. Total expenditures plus outstanding commitment and forecast to date, including this contract, are approximately \$182,852.00. Sufficient budget is available from savings in the reservoir coating/painting maintenance project to cover the expenses. See Attachment B for a breakdown of costs in account 5261 for FY'07, contracted services.

**STRATEGIC GOAL:**

This project supports the Operation Division's Mission Statement, "To provide all operations and maintenance services in the highest possible professional, efficient, safe and cost effective manner to all internal and external customers, and to strive to continually improve the level of services this Department provides."

**LEGAL IMPACT:** \_\_\_\_\_

None



\_\_\_\_\_  
**General Manager**

JV/HJ/RR/RP:jf

Attachment A Committee Action

Attachment B Expenditures and Commitment Table

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## ATTACHMENT A

**SUBJECT/PROJECT:**  
**P1270-007000**

Award of a Construction Contract for the Facilities  
Pavement Program Telegraph Canyon Road Project (P1270)

### COMMITTEE ACTION:

The Engineering and Water Operations Committee met to consider this item on April 24, 2007. The Committee supported Staff's recommendation.

### NOTE:

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



## ATTACHMENT B

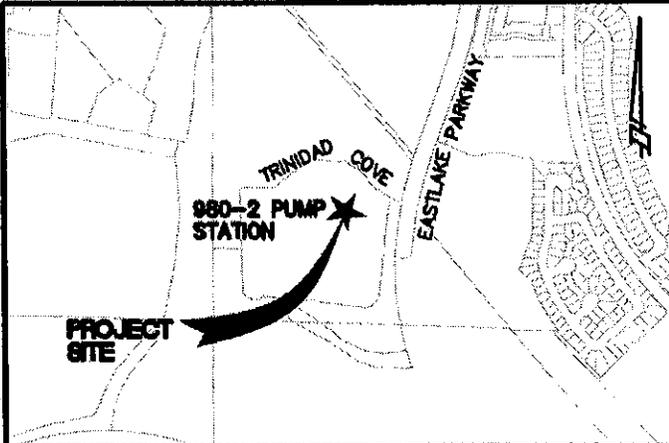
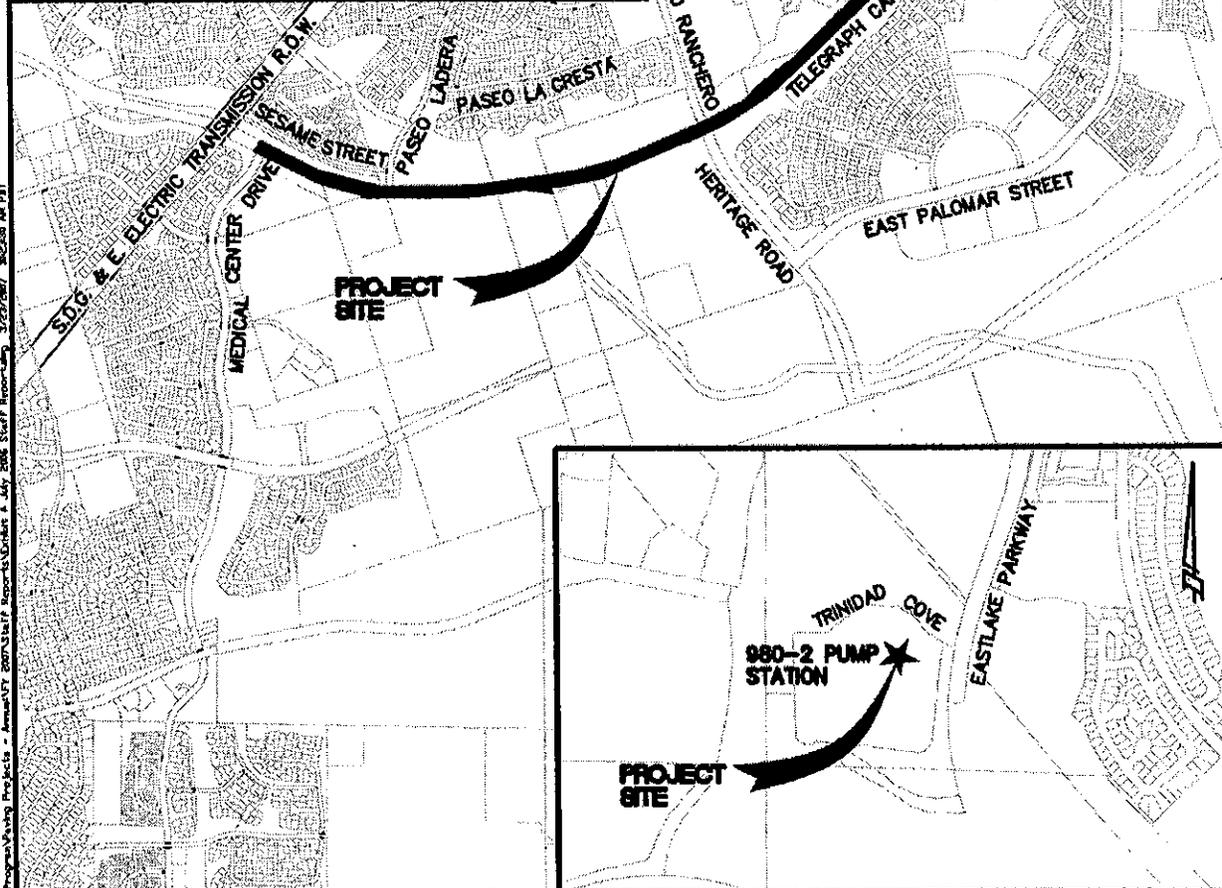
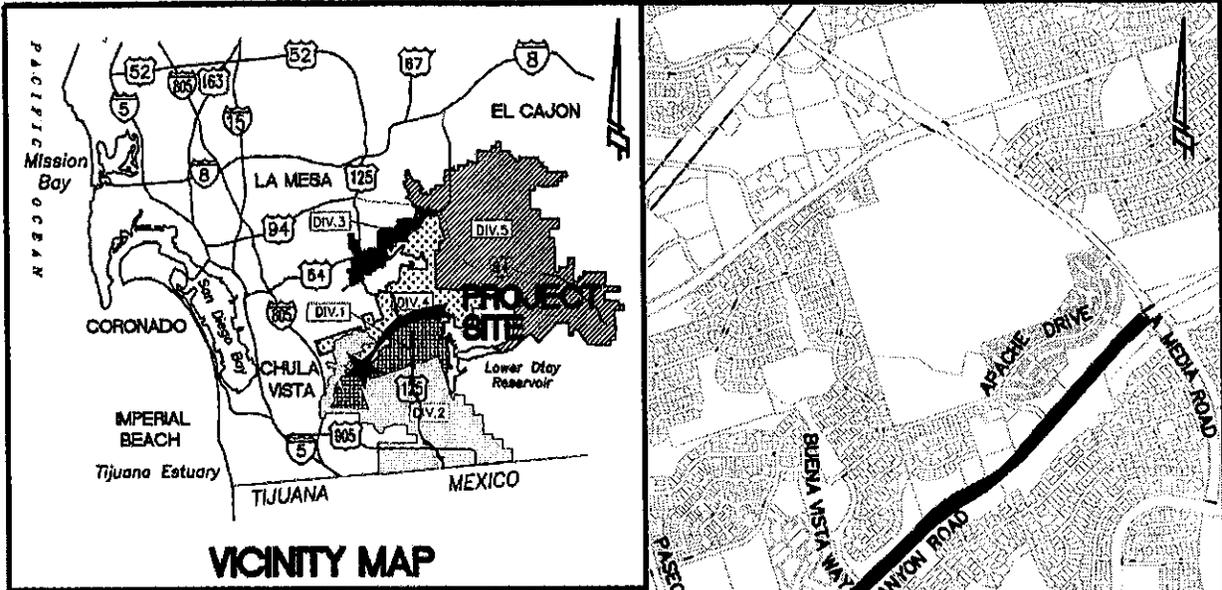
<b>SUBJECT/PROJECT:</b> P1270-007000	Award of a Construction Contract for the Facilities Pavement Program Telegraph Canyon Road Project (P1270)
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Otay Water District

Date Updated: March 29, 2007

### Account 5261 (Outside Contracted Services)

	<i>Budget</i>	<i>Expenditures/ Commitment</i>	<i>Available Balance</i>
<i>Budget</i>	<i>Budget</i>		
\$264,500			
<b>Planning Section</b>			
No outside contracted services for construction			
<b>Total Planning</b>	\$ -	\$ -	\$ -
<b>Design Section</b>			
Construction Contract Efforts for painting	104,500	-	104,500
Construction Contract Efforts for Paving Projects	160,000	34,202	125,798
Award Construction contract for Telegraph Canyon Road Project		128,650	(128,650)
Inspection Fee by City of Chula Vista		20,000	(20,000)
<b>Total Design</b>	\$ 264,500	\$ 182,852	\$ 81,648
<b>Construction Section</b>			
No outside contracted services for construction	-	-	-
<b>Total Construction</b>	\$ -	\$ -	\$ -
<b>Grand Total</b>	<b>\$ 264,500</b>	<b>\$ 182,852</b>	<b>\$ 81,648</b>



**OTAY WATER DISTRICT  
FACILITIES PAVEMENT PROGRAM  
TELEGRAPH CANYON ROAD**

**P1270**

P:\1270\GIS\CP\_V279\Government\GIS\_Program\Maping Projects - Annual\UT\_2007\Staff Reports\Under a July 2006 Staff Reorganization - 3/23/07 - 3/23/06 - 4/1/07

# AGENDA ITEM 4



## STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	May 2, 2007		
SUBMITTED BY:	Hossein Juybari <i>HJ</i> Senior Civil Engineer	PROJECT/ SUBPROJECT:	P2009/ 001102	DIV. NO.	5
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:	Award of a Professional Value Engineering and Constructability Review Services Contract to Harris & Associates for the 36-Inch Pipeline, SDCWA Otay FCF No. 14 to the Regulatory Site Project				

### GENERAL MANAGER'S RECOMMENDATION:

That the Board authorize the General Manager to enter into an Agreement for Professional Value Engineering Services with Harris & Associates (Harris) for an amount not to exceed \$107,138 for the 36-Inch Pipeline, SDCWA Otay FCF No. 14 to Regulatory Site Project (see Exhibit A for project location).

### COMMITTEE ACTION:

Please see Attachment A.

### PURPOSE:

To obtain Board authorization for the award of a professional services contract to obtain value engineering services for the 36-Inch Pipeline, SDCWA Otay FCF No. 14 to Regulatory Site Project.

### ANALYSIS:

The District will require the services of an engineering consultant firm to provide Professional Value Engineering and Constructability Review Services for the 36-Inch Pipeline, SDCWA Otay FCF No. 14 to Regulatory Site (36-Inch Pipeline) Project.

The purpose of Value Engineering and Constructability Review Services is to develop and present potential cost saving measures

that will not affect the utility or delivery service of the proposed 36-inch pipeline. The Study will strive to reduce potential inefficiencies, thus providing a successfully completed project that meets the District's needs of quality, cost and time. The Value Engineering Study will be based on guidelines of a five-phase process established by the Society of American Value Engineers (SAVE).

The District solicited Value Engineering and Constructability Review Services from engineering consulting firms by placing an advertisement on the District's website and with the following publications:

<b>Date of Advertisement</b>	<b>Publication</b>
2-8-07	San Diego Union Tribune
2-9-07	GreenSheet
2-7-07 to 2-16-07	Bid America
2-8-07	San Diego Daily Transcript
2-8-07 to 2-16-07	Associated General Contractors of America San Diego Chapter Inc.

Sixteen (16) firms submitted a letter of interest and a statement of qualifications. The Request for Proposal (RFP) for Professional Value Engineering Services was sent to the sixteen (16) consulting firms resulting in four (4) proposals received on March 13, 2007 from the following:

<b>Consulting Firms</b>	<b>Proposed Fee</b>
Camp Dresser & McKee Inc.	\$88,000
Harris & Associates	\$107,138
Jacobs	\$108,744
URS Corporation	\$147,512

The twelve (12) firms that chose not to propose are Brown and Caldwell; Carollo Engineers, P.C.; DBE Psomas; Dudek & Associates, Inc.; HDR Engineering, Inc.; Lee & Ro, Inc.; RBF Consulting; rsr Solutions, Inc.; Swinerton; Value Management Institute; Vanir Construction Management; and Willdan.

In accordance with the District's Policy 21, staff evaluated and scored all written proposals. Harris received the highest score for their services based on their experience, proposed method to accomplish the work, and their ability to complete projects on schedule. Harris was the most qualified consultant with the best overall proposal. A summary of the complete evaluation is shown in Exhibit B.

Oral evaluations of the highest ranked consultants were not conducted. Under the condition of Policy 21, formal interviews are not required for intermediate projects with fees between \$50,000 to \$200,000.

The District recently worked with Harris on the Value Engineering Study for the proposed Otay Mesa Recycled Water System. The Study resulted in thirty-eight (38) suggested ideas of which seventeen (17) were ranked highly desirable and further developed. Their recommendations will result in an estimated \$6.4 million long-term capital savings to the District. Their staff worked well with the District's staff and delivered a complete report to the District.

**FISCAL IMPACT:**



The total budget for CIP P2009 is \$18,490,000, as approved in the 2007 budget process. The actual costs paid on this project as of March 29, 2007, are \$369,204. Total expenditures and commitments to date, including this contract, are approximately \$1,819,659. Based on the cost analysis performed, staff does not anticipate that a budget increase is necessary. Attachment B is a table of commitments, expenditures, and the projected final cost for the project.

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

**STRATEGIC GOAL:**

This project supports the District's Mission statement, "To provide safe, reliable water, recycled water and wastewater services to our community in an innovative, cost efficient water wise and environmentally responsible manner", as well as the General Manager's vision, "...prepared for the future..." by guaranteeing that the District will always be able to meet future water supply obligations and plan, design and construct new facilities.

**LEGAL IMPACT:**

\_\_\_\_\_

None



\_\_\_\_\_  
**General Manager**

Attachment A Committee Action  
Attachment B Commitments, Expenditures and Final Cost Table  
BS/HJ/RR/RP:jf

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## ATTACHMENT A

<b>SUBJECT/PROJECT:</b> P2009/001102	Award of Professional Value Engineering Services Contract to Harris & Associates for the 36-Inch Pipeline, SDCWA Otay FCF No. 14 to the Regulatory Site Project (CIP P2009)
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### COMMITTEE ACTION:

The Engineering and Water Operations Committee met to consider this item on April 24, 2007. The Committee supported Staff's recommendation.

### NOTE:

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



## ATTACHMENT B

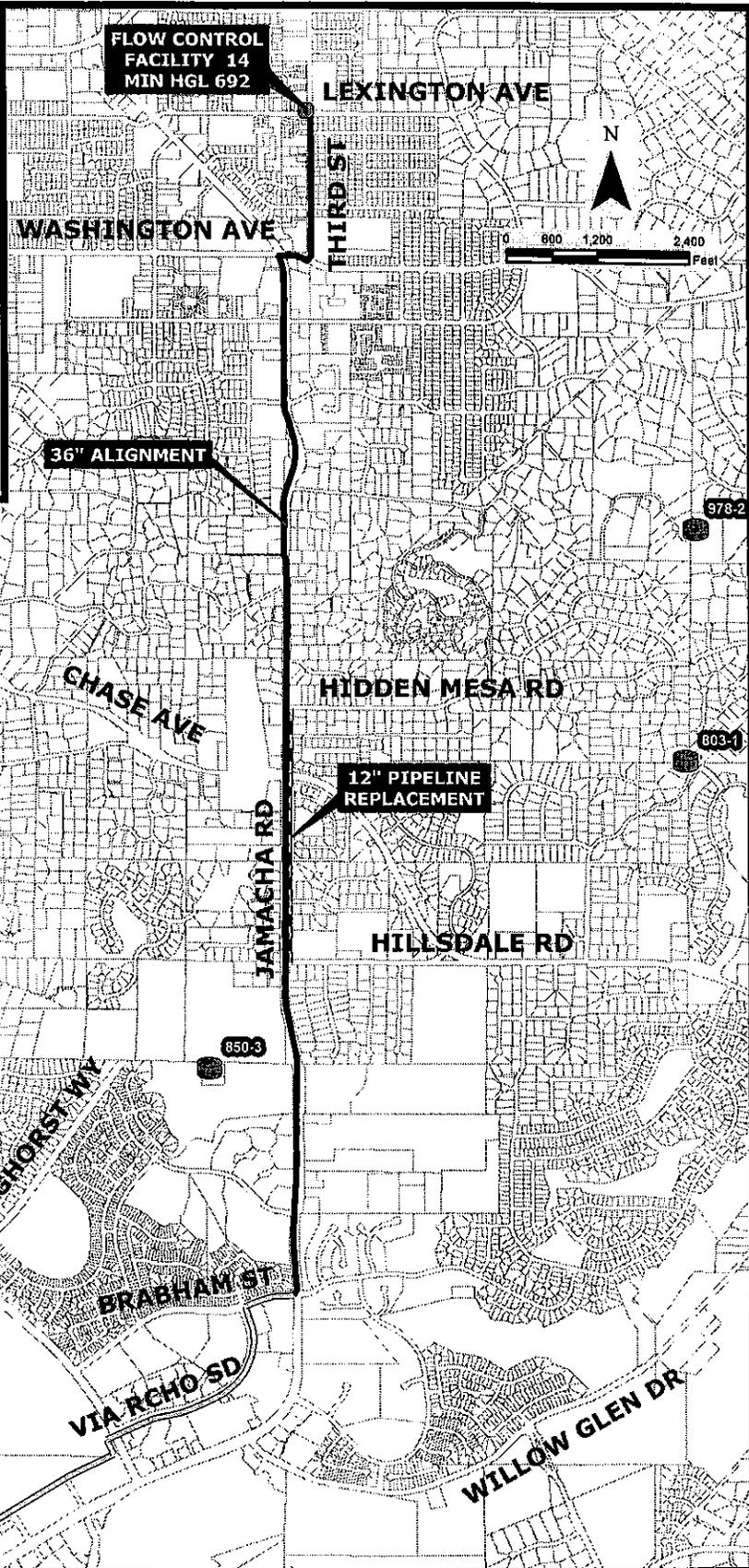
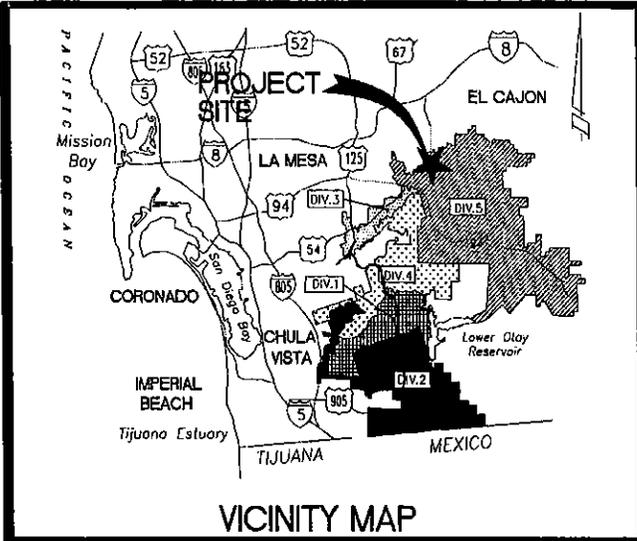
<b>SUBJECT/PROJECT:</b> P2009/001102	Award of Professional Value Engineering Services Contract to Harris & Associates for the 36-Inch Pipeline, SDCWA Otay FCF No. 14 to the Regulatory Site Project (CIP P2009)
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Otay Water District

P2009 - 36-Inch Pipeline from SDCWA Otay FCF No. 14 to the Regulatory Site

Date Updated: March 29, 2007

<i>Budget</i> \$18,490,000	<i>Committed</i>	<i>Expenditures</i>	<i>Outstanding Commitment &amp; Forecast</i>	<i>Projected Final Cost</i>	<i>Vendor / Comments</i>
<b>Planning</b>					
Labor	175,033	175,033	-	175,033	
Printing	993	993	-	993	OCB REPROGRAHICS
Professional Legal Fees	5,595	5,595	-	5,595	BURKE WILLIAMS & SORENSEN
Service Contracts	398	398	-	398	UNION TRIBUNE
	858	858	-	858	SD DAILY TRANSCRIPT
	350	350	-	350	RYAN BETHKE
	705	705	-	705	OLLI BROS
Subcontract	12,266	12,266	-	12,266	HELIX WATER DISTRICT
Temporary Labor	16	16	-	16	SEDONA STAFFING
<b>Total Planning</b>	<b>\$ 196,214</b>	<b>\$ 196,214</b>	<b>\$ -</b>	<b>\$ 196,214</b>	
<b>Design</b>					
Consultant Contract	1,333,808	125,019	1,208,789	1,333,808	INFRASTRUCTURE ENGINEERING
In House/Labor	47,304	47,304	375,000	422,304	
Consultant	99	99	-	99	PETTY CASH
Special Projects	48	48	-	48	SEDONA STAFFING
Meals and Incidentals	63	63	-	63	PETTY CASH
Advertising/Bid	87	87	-	87	SAN DIEGO DAILY TRANSCRIPT
Service Contracts	298	298	-	298	UNION TRIBUNE PUBLISHING CO
Value Engineering & Constructability Review	107,138	-	107,138	107,138	HARRIS & ASSOCIATES
Risk Assessment	-	-	20,000	20,000	
Easement Acquisition	-	-	400,000	400,000	
<b>Total Design</b>	<b>\$ 1,488,844</b>	<b>\$ 172,917</b>	<b>\$ 2,110,927</b>	<b>\$ 2,283,844</b>	
<b>Construction</b>					
In House/Labor	73	73	229,927	230,000	
Construction Contracts	-	-	14,076,942	14,076,942	
Construction Manager	-	-	900,000	900,000	
OWD to Pay CWA for FCF 14	700,000	-	700,000	700,000	
Acqpl/close-out	-	-	103,000	103,000	
<b>Total Construction</b>	<b>\$ 700,073</b>	<b>\$ 73</b>	<b>\$ 16,009,869</b>	<b>\$ 16,009,942</b>	
<b>Grand Total</b>	<b>\$ 2,385,131</b>	<b>\$ 369,204</b>	<b>\$ 18,120,796</b>	<b>\$ 18,490,000</b>	



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**OTAY WATER DISTRICT**  
 PIPELINE 36-INCH,  
 SDCWA FCF NO. 14 TO REGULATORY SITE

CIP P2009

W.O. 30136

**EXHIBIT A**

# EXHIBIT B

## PROPOSAL RANKING VALUE ENGINEERING SERVICES FOR CIP P2009

		← WRITTEN →								TOTAL SCORE	AVERAGE SCORE	REFERENCES
		Qualifications, experience of Consultant's assigned personnel	Experience relevant to type of project being considered	Proposed method to accomplish work	Knowledge of jurisdictional agencies, local area environmental concerns, and regulatory requirements	Proposed Fee	Completeness, addressed requested information	Ability to complete projects on schedule	Consultant's commitment to EBE, DBE, MBE, SBE			
	<b>Reviewer:</b>	<b>15</b>	<b>15</b>	<b>10</b>	<b>10</b>	<b>20</b>	<b>15</b>	<b>10</b>	<b>5</b>	<b>100</b>		✓
<b>Camp Dresser &amp; McKee Inc.</b>	Manny Magaña	11	11	8	8	20	13	8	3	82	82.8	
	Rod Posada	11	12	12	7	20	12	8	3	85		
	Ron Ripperger	11	12	12	7	20	12	7	3	84		
	Jerry Muñoz	13	12	6	7	20	10	7	3	78		
	Hossein Juybari	13	12	9	7	20	12	9	3	85		
<b>Harris &amp; Associates</b>	Manny Magaña	14	14	10	10	18	15	10	4	95	93.2	✓
	Rod Posada	13	14	14	9	18	14	9	4	95		
	Ron Ripperger	13	13	13	9	18	14	9	4	93		
	Jerry Muñoz	15	15	8	8	18	15	10	4	93		
	Hossein Juybari	13	13	9	10	18	14	9	4	90		
<b>Jacobs</b>	Manny Magaña	11	11	8	9	18	13	8	4	82	84.4	
	Rod Posada	11	13	12	9	18	13	8	4	88		
	Ron Ripperger	11	11	11	8	18	12	8	4	83		
	Jerry Muñoz	13	12	7	6	18	12	8	4	80		
	Hossein Juybari	13	13	9	9	18	14	9	4	89		
<b>URS Corporation</b>	Manny Magaña	12	12	10	8	10	15	9	3	79	77.4	
	Rod Posada	12	13	14	8	10	13	8	3	81		
	Ron Ripperger	12	13	13	8	10	13	6	3	80		
	Jerry Muñoz	15	13	8	8	10	12	10	3	79		
	Hossein Juybari	11	11	8	6	10	11	8	3	68		



## AGENDA ITEM 5

### STAFF REPORT

TYPE MEETING:	Engineering and Operations Committee	BOARD MEETING DATE:	April 23, 2007
SUBMITTED BY:	Gary Stalker,  System Operations Manager	W.O./G.F. NO:	DIV. NO. 5
APPROVED BY: (Chief)	Pedro Porrás, Chief of Water Operation 		
APPROVED BY: (Asst. GM):	Manny Magaña, Assistant General Manager, Engineering and Water Operations		
SUBJECT:	Acceptance of Amendments to Section 26 of the Code of Ordinances		

#### **STAFF RECOMMENDATION:**

To accept the proposed amendments to Section 26 of the Code of Ordinances and approve Ordinance Number 511.

#### **PURPOSE:**

The proposed amendments accomplish three primary purposes.

1. Make the language of Section 26 consistent with revisions made to the California Water Code.
2. Authorize the General Manager to issue a Temporary Recycled Water Use Permit, for up to 120 days, after a Recycled Water Use Permit is revoked or suspended. A temporary permit could allow a site to continue to receive recycled water while corrective actions are taken.
3. Incorporates remedies available to the District in connection with violations of the Recycled Water provisions, including suspension of applicable permits, payment of fines imposed on the District by regulatory agencies, and reimbursement to District of costs and expenses due to incurred by District in connection with the violation.
4. For the Board to adopt Ordinance Number 511.

#### **ANALYSIS:**

In 1995, AB 1247 required the substitution of "recycled water" for "reclaimed water" and "recycling" for "reclamation" in the California Water Code. The proposed amendments make the language in the ordinance consistent with AB 1247.

The General Manager presently has the authority to revoke a permit and terminate recycled water service for violations of the ordinance. However, for less severe infractions that do not warrant terminating service, there is not a provision for getting infractions resolved in a timely manner while continuing service. The temporary permit will give site owners a firm deadline to take corrective actions.

In Section 26.08 D of the present ordinance, the District can assess a fine, not exceeding \$1000 per day for violations of the ordinance. There is no provision in the existing Section 26 for the District to charge the owner for damages to District facilities, fines imposed on the District by regulatory agencies, and District expenses (staff time, equipment, and materials) due to the violation. Since the District holds the Master Recycled Water Permit for recycled water use in its boundaries, the regulatory agencies issue violations and fines to the District. Both the California Department of Health Services and the San Diego County Department of Environmental Health have informed the District they are not able to issue violations or fine site owners directly. It is the District's responsibility as a Master Permit holder to enforce recycled water rules and regulations. Therefore, these amendments will allow the District to charge the site owner for fines and other expenses related to a violation.

**FISCAL IMPACT:**



None

**STRATEGIC GOAL:**

Stewards of Public Infrastructure

**LEGAL IMPACT:**

\_\_\_\_\_

None



\_\_\_\_\_  
General Manager

- Attachment A: Committee Action Form
- Attachment B: Ordinance 511, adopting amendments to Section 26.
- Attachment C: Section 26, "Water Recycling Plan and Implementing Procedures"
- Attachment D: Section 26, "Water Recycling Plan and Implementing Procedures", redlined to show changes to existing Section 26.



## ATTACHMENT A

<b>SUBJECT/PROJECT:</b>	ACCEPTANCE OF AMENDMENTS TO SECTION 26 OF THE CODE OF ORDINANCES
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### **COMMITTEE ACTION:**

The Engineering/Operations/Water Resources Committee met on April 24, 2007 to review the background and status of an amendment to Section of the Code of Ordinances. The committee supports/rejects presentation to the full board for their consideration.

### **NOTE:**

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

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE OTAY WATER DISTRICT AMENDING SECTION 26 OF THE DISTRICT'S CODE OF ORDINANCE

WHEREAS, certain provisions of the Section 26 of the District's Code of Ordinance must be amended to update its language and provisions to more fully satisfy the requirements of the California Department of Health Services, as set forth in the California Code of Administrative Regulations, Title 22, relating to wastewater reclamation, and the requirements of the Regional Water Control Board; and

WHEREAS, it would be in the best interest of the District to also adopt additional revisions to Section 26 of the District's Code of Ordinance to clarify its procedures with respect to recycled water permits and the proper use, management and supervision of recycled water distribution systems; and

WHEREAS, all proposed revisions are reflected on the blacklined version of Section 26 attached as Attachment A to this Ordinance.

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

1. Section 26 of the Code of Ordinance of the Otay Water District is hereby amended to incorporate the revisions shown on Attachment A hereto.
2. The revised Section 26, commencing with Section 26.01, is hereby adopted, passed and approved.
3. The General Manager and the District Secretary are hereby ordered to take any and all actions and steps necessary to carry out the provisions of this ordinance, including, to the extent practicable, recalling and replacing any and all hard-copies of the Code of Ordinance previously provided to District staff, other public agencies or any other persons.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Otay Water District at a regular meeting held this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

## ATTACHMENT C

### SECTION 26 WATER RECYCLING PLAN AND IMPLEMENTING PROCEDURES

#### 26.01 FINDINGS

The state policies regarding use of recycled water are in the best interest of the Otay Water District. The majority of jurisdictions in San Diego County have adopted measures to promote water reclamation. This ordinance is necessary to protect the common water supply of the region which is vital to public health and safety, and to prevent endangerment of public and private property.

San Diego County is highly dependent on limited imported water for domestic, agricultural and industrial uses. The reliability of the supply of imported water is uncertain. By developing and utilizing recycled water, the need for additional imported water can be reduced. In light of these circumstances, certain uses of potable water may be considered unreasonable or to constitute a nuisance where recycled water is available.

#### 26.02 USE OF RECYCLED WATER

- A. District Policy: It is the policy of the District that recycled water shall be used within the jurisdiction wherever its use is financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment.
  
- B. Required Use for Greenbelt Purposes: Pursuant to Section 13550 of the California Water Code, no customer of the District shall make, cause, use or permit the use of potable water supplied by the District for greenbelt uses, including, but not limited to, cemeteries, golf courses, parks and highway landscaped areas, when, following notice and a hearing, the District finds that recycled water is available for such greenbelt uses and that the following conditions are met:
  1. the recycled water is of adequate quality;
  2. the recycled water may be furnished to such areas at a reasonable cost, comparable to or less than the cost of supplying potable domestic water;
  3. the State Department of Health Services has determined that such use would not be detrimental to public health; and

4. the use of recycled water will not adversely affect downstream water rights, will not degrade water quality.

The findings may include terms and conditions under which recycled water shall be used. In addition, the District may assist the customer in obtaining any permits or approvals required for the use of recycled water.

#### 26.03 DEFINITIONS

The following terms are defined for purposes of this ordinance:

- A. Agricultural Purposes: Agricultural purposes include the growing of field and nursery crops, row crops, trees, and vines and the feeding of fowl and livestock.
- B. Artificial Lake: A human-made lake, pond, lagoon, or other body of water that is used wholly or partly for landscape, scenic or noncontact recreational purposes.
- C. Commercial Office Building: Any building for office or commercial uses with water requirements which include, but are not limited to, landscape irrigation, toilets, urinals and decorative fountains.
- D. Recycled Water Distribution System: A piping system intended for the delivery of recycled water separate from and in addition to the potable water distribution system.
- E. Greenbelt Areas: A greenbelt area includes, but is not limited to golf courses, cemeteries, parks and landscaping.
- F. Industrial Process Water: Water used by any industrial facility with process water requirements which include, but are not limited to, rinsing, washing, cooling and circulation, or construction, including any facility regulated for industrial waste or other objectionable discharge under District Code of Ordinances Sections 52.04, 52.05 and 52.06.
- G. Off-Site Facilities: Water facilities from the source of supply to the point of connection with the on-site facilities, normally up to and including the water meter.

- H. On-Site Facilities: Water facilities under the control of the owner normally downstream from the water meter.
- I. Potable Water: Water which conforms to the federal, state and local standards for human consumption.
- J. Recycled Water: Recycled water means water which, as a result of treatment, is suitable for a direct beneficial use or controlled use that would not otherwise occur. (See Water Code Section 13050(n).)
- K. Recycled Water Use Permit: A recycled water permit means a permit issued by the District approving and conditioning recycled water service for a particular site.
- L. Site Supervisor: A person responsible for the safe and efficient installation, operation and maintenance of a recycled water use site, including but not limited to compliance with all applicable permits, enforcement of the recycled water producer's rules and regulations and the prevention of potential hazards, such as cross-connections. The Site Supervisor must be certified by the San Diego County Water Authority as a Recycled Water Site Supervisor and must have evidence of valid certification at all times while acting as Site Supervisor.
- M. Temporary Recycled Water Use Permit: Temporary recycled water use permit means a permit issued by the District, at its discretion, to allow temporary use of recycled water pending issuance of a recycled water use permit or pending renewal of such permit following suspension or termination due to a violation of the provisions of this Section.
- N. Waste Discharge: Waste Discharge means water deposited, released or discharged into a sewer system from any commercial, industrial or residential source which contains levels of any substance or substances which may cause substantial harm to any water treatment or reclamation facility or which may prevent any use of reclaimed water authorized by law.

26.04 WATER RECLAMATION MASTER PLAN

- A. General: The General Manager shall prepare and adopt a Water Recycling Master Plan to define,

encourage, and develop the use of recycled water within the District's boundaries. The Master Plan shall be updated not less often than every five years.

- B. Contents of the Water Recycling Master Plan: The Master Plan shall include, but not be limited to, the following:
1. Plants and Facilities. Evaluation of the location and size of present and future recycling treatment plants, distribution pipelines, pump stations, reservoirs, and other related facilities, including cost estimates and potential financing methods.
  2. Recycled Water Service Areas. A designation, based on the criteria set forth in Section 26.02 and the information derived from Section 26.04B.1. and this Section 26.04B.2. of the areas within the District that can or may in the future use recycled water in lieu of potable water. Recycled water uses may include, but are not limited to, the irrigation of greenbelt and agricultural areas, filling of artificial lakes, and appropriate industrial and commercial uses.
  3. Designate Tributary Areas. For each water reclamation facility identified in the Master Plan, designate proposed tributary areas. Within such areas, discharges to the sewage system shall be subject to permitting, monitoring and control measures to protect public health, safety and public and private property. Designation of tributary areas shall be adopted by ordinances, and may be included in the Master Plan. Prior to designation of tributary areas, appropriate notice shall be given to property owners and residents of the area.
  4. Quality of Water to be Recycled. For each water reclamation treatment facility, evaluate water quality with respect to the effect on anticipated uses of recycled water to be served by each treatment facility. Evaluate sources of waste discharge and sewer inflow that may, directly or cumulatively, substantially contribute to adverse water quality conditions in recycled water.

5. Tributary Protection Measures. Develop recommended control measures and management practices for each designated tributary area to maintain or improve the quality of recycled water. Such control measures may include capital improvements to the sewer collection system and waste discharge restrictions for industrial, commercial and residential discharges.
6. Mandatory Recycled Water Use. For each recycled water service area, evaluate whether greenbelt irrigation, agricultural irrigation, commercial office buildings, filling of artificial lakes, or industrial processes shall be limited to the use of recycled water. As appropriate, mandate construction of recycled water distribution systems or other facilities in new and existing developments for current or future recycled water use as a condition of any development approval or continued water service if future reclamation facilities are proposed in the Master Plan that could adequately serve the development, in accordance with the procedures described in Section 26.05. Identify resources and adopt measures to assist water users in the financing of necessary conversions.
7. Rules and Regulations for Recycled Water Use. Establish general rules and regulations governing the use and distribution of recycled water.
8. Public Awareness Program. Establish a comprehensive water reclamation public awareness program.
9. Coordination Among Agencies. An examination of the potential for initiating a coordinated effort between the District and other regional agencies to share in the production and utilization of recycled water.

26.05 PROCEDURES

A. Existing Potable Water Service.

1. Preliminary Determination. Based upon the Master Plan, upon the designation of each recycled water service area or the commencement of the design of new recycled water facilities, the General Manager shall make

preliminary determinations as to which existing potable water customers shall be converted to the use of recycled water. Each water customer shall be notified of the basis for a determination that conversion to recycled water service will be required, as well as the proposed conditions and schedule for conversion.

2. Notice. The notice of the preliminary determination, including the proposed conditions and time schedule for compliance, and a recycled water permit application shall be sent to the water customer by certified mail.
3. Objections; Appeals. The water customer may file a notice of objection with the District within thirty (30) days after any notice of determination to comply is delivered or mailed to the customer, and may request reconsideration of the determination or modification of the proposed conditions or schedule for conversion. The objection must be in writing and specify the reasons for the objection. The preliminary determination shall be final if the customer does not file a timely objection. Staff (Engineering Department) shall review the objection and shall confirm, modify or abandon the preliminary determination. Upon issuance of a final determination by Staff, customer may appeal the determination upon written application to the Board of Directors after the final determination made by the Staff. (Engineering Department).

B. Development and Water Service Approvals.

1. Conditions. Upon application by a developer, owner or water customer (herein referred to as "applicant") for a tentative map, subdivision map, land use permit or other development project as defined by Government Code Section 65928 or for new or altered water service, the District Staff shall review the Master Plan and make a preliminary determination whether the current or proposed use of the subject property is required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled

water, and application for a permit for such use may be required as a condition of approval of any such application, in addition to any other conditions of approval for service.

2. Alterations and Remodeling. On a case-by-case basis, upon application for a permit for the alteration or remodeling of multifamily, commercial or industrial structures (including, for example, hotels), the District Staff shall review the Master Plan and make a preliminary determination whether the subject property shall be required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled water, and application for a permit for such use, may be required as a condition of approval of the application.
  3. Notice of Determination. A notice of the basis for the preliminary determination, proposed conditions of approval and schedule for compliance shall be provided to the applicant prior to approval of the development application or application for water service.
  4. Requested Service. On a case-by-case basis, upon application for a permit to use recycled water on a property not covered by Sections 26.05.A.1, 26.05.B.1, or 26.05.B.2 above, the General Manager shall review the Master Plan and make a determination whether the subject property shall be served with recycled water. Based upon such determination, the application for the permit shall be accepted and processed subject to Section 26.05.C.
- C. Recycled Water Permit Process. Upon a final determination by the General Manager that a property shall be served with recycled water, or adoption of a condition of development approval or water service requiring use or accommodation of the use of recycled water, the water customer owner or applicant shall obtain a recycled water permit.
1. Permit Conditions. The permit shall specify the design and operational requirements for the applicant's water distribution facilities

and schedule for compliance, based on the rules and regulations adopted pursuant to Section 26.04.B and shall require compliance with both the California Department of Health Services Wastewater Recycling Criteria (see California Code of Administrative Regulations, Title 22), and requirements of the Regional Water Quality Control Board.

2. Plan Approval. Plans for the recycled and non-recycled water distribution systems for the parcel shall be reviewed by the District Engineer and a field inspection conducted before the plans are approved.
  3. Meter Permit Issuance. Upon completion of construction and approval by the District and the County Department of Environmental Health the meter permit shall be issued. Recycled water shall not be supplied to a property until inspection by the District determines that the applicant is in compliance with the permit conditions.
  4. Recycled Water Use Permit Issuance. If the site has a certified Recycled Water Site Supervisor, a Recycled Water Use Permit will be issued by the District. If the site does not have a certified Site Supervisor identified, a Temporary Recycled Water Use Permit will be issued, for up to 120 days, to allow the site to receive recycled water while a proposed Site Supervisor is being certified.
- D. Temporary Use of Potable Water. At the discretion of the General Manager, potable water may be made available on a temporary basis, until recycled water is available. Before the applicant receives temporary potable water, a water reclamation permit, as described in Section 26.05.C, must be obtained for new on-site distribution facilities. Prior to commencement of recycled water service, an inspection of the on-site facilities will be conducted to verify that the facilities have been maintained and are in compliance with the recycled water permit and current requirements for service. Upon verification of compliance, the applicant shall be notified of the corrective actions necessary and shall have at least thirty (30) days to take such actions prior to initiation of enforcement proceedings.

- E. Recycled Water Rate. The rate charged for recycled water shall be established by Ordinance of the Board of Directors.

26.06 REGULATION OF WASTE DISCHARGE TO SEWERAGE SYSTEMS

- A. Intent. The District recognizes that to maintain adequate wastewater quality for water reclamation treatment processes, and to protect public and private property, restrictions may be required on certain industrial, commercial and residential waste discharges to a sewerage system that is located within a designated tributary area of an existing or planned reclamation facility.
- B. Adopted Tributary Protection Measures. Waste discharges to the sewerage system from any industrial, commercial or residential source may be restricted or prohibited upon a finding, following a noticed public hearing, that the type or class of discharge involved is capable of causing or may cause substantial damage or harm to any sewage treatment or reclamation facility or to any significant user or users or potential user or users of recycled water within an area which has been planned for recycled water service. Prohibitions for certain discharges and guidelines for acceptability of wastes are set forth in District Code of Ordinances Sections 52.04, PROHIBITIONS AGAINST DISCHARGE OF OBJECTIONABLE WASTES, which prohibits discharge of certain items into the District sewer system, including, but not limited to, brine discharge from on-site self-regenerating water softener units; 52.05, GUIDELINES TO DETERMINE ACCEPTABILITY OF WASTES; and 52.06, DISCHARGE OF INDUSTRIAL WASTE.

26.07 SANCTIONS.

- A. Public Nuisance. Discharge of wastes or the use of recycled water in any manner in violation of this ordinance or of any permit issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the General Manager. Any person creating such a public nuisance is guilty of a misdemeanor.
- B. Injunction. Whenever a discharge of wastes or use of recycled water is in violation of this ordinance or otherwise causes or threatens to cause a public nuisance, the District may seek injunctive relief as may be appropriate to enjoin such discharge or use.

- C. Permit Suspension or Revocation. In addition to any other provision of this Code or state statute or rule authorizing termination of water service, the General Manager may suspend or revoke a permit issued hereunder if a violation of any provision of this ordinance or the Rules and Regulations for Recycled Water Use is found to exist or if a discharge of wastes or use of recycled water causes or threatens to cause a nuisance. If a permit is revoked, the General Manager may, at its discretion, issue the recycled water user a temporary recycled water permit for up to 120 days to allow service to continue while corrective measures are completed.
- D. Penalty. Any owner and/or operator who violates this ordinance shall, for each day of violation, or portion thereof, be subject to a fine not exceeding \$1,000, or other higher amount authorized by applicable law.
- E. Other Remedies. In addition to any fine, revocation, suspension or penalty imposed under this Section 26 in connection with any violation of this Section, the District may take any or all the following actions: (i) suspend or terminate water and or sewer service to the property, the owner and/or the operator; (ii) require payment by the owner for any damage to the District facilities, reimbursement to District of costs and expenses, or fines imposed on the District in connection with such violation; or (iii) prosecute the responsible party under any applicable provision of this Code, the Water Code or the Penal Code.

26.08        VALIDITY

If any provision of this Section 26 or the application thereof to any person or circumstance is held invalid, the remainder of Section 26 and the application of such provisions to other persons or circumstances shall not be affected thereby.

ATTACHMENT D

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SECTION 26 WATER RECYCLING PLAN AND IMPLEMENTING PROCEDURES

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26.01 FINDINGS

The state policies regarding use of recycled water are in the best interest of the Otay Water District. The majority of jurisdictions in San Diego County have adopted measures to promote water reclamation. This ordinance is necessary to protect the common water supply of the region which is vital to public health and safety, and to prevent endangerment of public and private property.

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San Diego County is highly dependent on limited imported water for domestic, agricultural and industrial uses. The reliability of the supply of imported water is uncertain. By developing and utilizing recycled water, the need for additional imported water can be reduced. In light of these circumstances, certain uses of potable water may be considered unreasonable or to constitute a nuisance where recycled water is available.

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26.02 USE OF RECYCLED WATER

A. District Policy: It is the policy of the District that recycled water shall be used within the jurisdiction wherever its use is financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment.

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B. Required Use for Greenbelt Purposes: Pursuant to Section 13550 of the California Water Code, no customer of the District shall make, cause, use or permit the use of potable water supplied by the District for greenbelt uses, including, but not limited to, cemeteries, golf courses, parks and highway landscaped areas, when, following notice and a hearing, the District finds that recycled water is available for such greenbelt uses and that the following conditions are met:

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1. the recycled water is of adequate quality;

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2. the recycled water may be furnished to such areas at a reasonable cost, comparable to or less than the cost of supplying potable domestic water;

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3. the State Department of Health Services has determined that such use would not be detrimental to public health; and

4. the use of recycled water will not adversely affect downstream water rights, will not degrade water quality.

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The findings may include terms and conditions under which recycled water shall be used. In addition, the District may assist the customer in obtaining any permits or approvals required for the use of recycled water.

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26.03 DEFINITIONS

The following terms are defined for purposes of this ordinance:

- A. Agricultural Purposes: Agricultural purposes include the growing of field and nursery crops, row crops, trees, and vines and the feeding of fowl and livestock.
- B. Artificial Lake: A human-made lake, pond, lagoon, or other body of water that is used wholly or partly for landscape, scenic or noncontact recreational purposes.
- C. Commercial Office Building: Any building for office or commercial uses with water requirements which include, but are not limited to, landscape irrigation, toilets, urinals and decorative fountains.
- D. Recycled Water Distribution System: A piping system intended for the delivery of recycled water separate from and in addition to the potable water distribution system.
- E. Greenbelt Areas: A greenbelt area includes, but is not limited to golf courses, cemeteries, parks and landscaping.
- F. Industrial Process Water: Water used by any industrial facility with process water requirements which include, but are not limited to, rinsing, washing, cooling and circulation, or construction, including any facility regulated for industrial waste or other objectionable discharge under District Code of Ordinances Sections 52.04, 52.05 and 52.06.
- G. Off-Site Facilities: Water facilities from the source of supply to the point of connection with the on-site facilities, normally up to and including the water meter.

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- H. On-Site Facilities: Water facilities under the control of the owner normally downstream from the water meter.
- I. Potable Water: Water which conforms to the federal, state and local standards for human consumption.
- J. Recycled Water: Recycled water means water which, as a result of treatment, is suitable for a direct beneficial use or controlled use that would not otherwise occur. (See Water Code Section 13050 (n) .).
- K. Recycled Water Use Permit: A recycled water permit means a permit issued by the District approving and conditioning recycled water service for a particular site.
- L. Site Supervisor: A person responsible for the safe and efficient installation, operation and maintenance of a recycled water use site, including but not limited to compliance with all applicable permits, enforcement of the recycled water producer's rules and regulations and the prevention of potential hazards, such as cross-connections. The Site Supervisor must be certified by the San Diego County Water Authority as a Recycled Water Site Supervisor and must have evidence of valid certification at all times while acting as Site Supervisor.
- M. Temporary Recycled Water Use Permit: Temporary recycled water use permit means a permit issued by the District, at its discretion, to allow temporary use of recycled water pending issuance of a recycled water use permit or pending renewal of such permit following suspension or termination due to a violation of the provisions of this Section.
- N. Waste Discharge: Waste Discharge means water deposited, released or discharged into a sewer system from any commercial, industrial or residential source which contains levels of any substance or substances which may cause substantial harm to any water treatment or reclamation facility or which may prevent any use of reclaimed water authorized by law.

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26.04 WATER RECLAMATION MASTER PLAN

- A. General: The General Manager shall prepare and adopt a Water Recycling Master Plan to define,

encourage, and develop the use of recycled water within the District's boundaries. The Master Plan shall be updated not less often than every five years.

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B. Contents of the Water Recycling Master Plan: The Master Plan shall include, but not be limited to, the following:

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1. Plants and Facilities. Evaluation of the location and size of present and future recycling treatment plants, distribution pipelines, pump stations, reservoirs, and other related facilities, including cost estimates and potential financing methods.

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2. Recycled Water Service Areas. A designation, based on the criteria set forth in Section 26.02 and the information derived from Section 26.04B.1 and this Section 26.04B.2 of the areas within the District that can or may in the future use recycled water in lieu of potable water. Recycled water uses may include, but are not limited to, the irrigation of greenbelt and agricultural areas, filling of artificial lakes, and appropriate industrial and commercial uses.

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3. Designate Tributary Areas. For each water reclamation facility identified in the Master Plan, designate proposed tributary areas. Within such areas, discharges to the sewage system shall be subject to permitting, monitoring and control measures to protect public health, safety and public and private property. Designation of tributary areas shall be adopted by ordinances, and may be included in the Master Plan. Prior to designation of tributary areas, appropriate notice shall be given to property owners and residents of the area.

4. Quality of Water to be Recycled. For each water reclamation treatment facility, evaluate water quality with respect to the effect on anticipated uses of recycled water to be served by each treatment facility. Evaluate sources of waste discharge and sewer inflow that may, directly or cumulatively, substantially contribute to adverse water quality conditions in recycled water.

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5. Tributary Protection Measures. Develop recommended control measures and management practices for each designated tributary area to maintain or improve the quality of recycled water. Such control measures may include capital improvements to the sewer collection system and waste discharge restrictions for industrial, commercial and residential discharges.

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6. Mandatory Recycled Water Use. For each recycled water service area, evaluate whether greenbelt irrigation, agricultural irrigation, commercial office buildings, filling of artificial lakes, or industrial processes shall be limited to the use of recycled water. As appropriate, mandate construction of recycled water distribution systems or other facilities in new and existing developments for current or future recycled water use as a condition of any development approval or continued water service if future reclamation facilities are proposed in the Master Plan that could adequately serve the development, in accordance with the procedures described in Section 26.05. Identify resources and adopt measures to assist water users in the financing of necessary conversions.

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7. Rules and Regulations for Recycled Water Use. Establish general rules and regulations governing the use and distribution of recycled water.

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8. Public Awareness Program. Establish a comprehensive water reclamation public awareness program.

9. Coordination Among Agencies. An examination of the potential for initiating a coordinated effort between the District and other regional agencies to share in the production and utilization of recycled water.

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## 26.05 PROCEDURES

### A. Existing Potable Water Service

1. Preliminary Determination. Based upon the Master Plan, upon the designation of each recycled water service area or the commencement of the design of new recycled water facilities, the General Manager shall make

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preliminary determinations as to which existing potable water customers shall be converted to the use of recycled water. Each water customer shall be notified of the basis for a determination that conversion to recycled water service will be required, as well as the proposed conditions and schedule for conversion.

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2. Notice. The notice of the preliminary determination, including the proposed conditions and time schedule for compliance, and a recycled water permit application shall be sent to the water customer by certified mail.

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3. Objections; Appeals. The water customer may file a notice of objection with the District within thirty (30) days after any notice of determination to comply is delivered or mailed to the customer, and may request reconsideration of the determination or modification of the proposed conditions or schedule for conversion. The objection must be in writing and specify the reasons for the objection. The preliminary determination shall be final if the customer does not file a timely objection. Staff (Engineering Department) shall review the objection and shall confirm, modify or abandon the preliminary determination. Upon issuance of a final determination by Staff, customer may appeal the determination upon written application to the Board of Directors after the final determination made by the Staff. (Engineering Department).

B. Development and Water Service Approvals.

1. Conditions. Upon application by a developer, owner or water customer (herein referred to as "applicant") for a tentative map, subdivision map, land use permit or other development project as defined by Government Code Section 65928 or for new or altered water service, the District Staff shall review the Master Plan and make a preliminary determination whether the current or proposed use of the subject property is required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled

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water, and application for a permit for such use may be required a a condition of approval of any such application, in addition to any other conditions of approval for service.

2. Alterations and Remodeling. On a case-by-case basis, upon application for a permit for the alteration or remodeling of multifamily, commercial or industrial structures (including, for example, hotels), the District Staff shall review the Master Plan and make a preliminary determination whether the subject property shall be required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled water, and application for a permit for such use, may be required as a condition of approval of the application.

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3. Notice of Determination. A notice of the basis for the preliminary determination, proposed conditions of approval and schedule for compliance shall be provided to the applicant prior to approval of the development application or application for water service.

4. Requested Service. On a case-by-case basis, upon application for a permit to use recycled water on a property not covered by Sections 26.05.A.1, 26.05.B.1, or 26.05.B.2 above, the General Manager shall review the Master Plan and make a determination whether the subject property shall be served with recycled water. Based upon such determination, the application for the permit shall be accepted and processed subject to Section 26.05.C.

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- C. Recycled Water Permit Process. Upon a final determination by the General Manager that a property shall be served with recycled water, or adoption of a condition of development approval or water service requiring use or accommodation of the use of recycled water, the water customer owner or applicant shall obtain a recycled water permit.

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1. Permit Conditions. The permit shall specify the design and operational requirements for the applicant's water distribution facilities

and schedule for compliance, based on the rules and regulations adopted pursuant to Section 26.04.B and shall require compliance with both the California Department of Health Services Wastewater Recycling Criteria (see California Code of Administrative Regulations, Title 22), and requirements of the Regional Water Quality Control Board.

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2. Plan Approval. Plans for the recycled and non-recycled water distribution systems for the parcel shall be reviewed by the District Engineer and a field inspection conducted before the plans are approved.

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3. Meter Permit Issuance. Upon completion of construction and approval by the District and the County Department of Environmental Health the meter permit shall be issued. Recycled water shall not be supplied to a property until inspection by the District determines that the applicant is in compliance with the permit conditions.

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4. Recycled Water Use Permit Issuance. If the site has a certified Recycled Water Site Supervisor, a Recycled Water Use Permit will be issued by the District. If the site does not have a certified Site Supervisor identified, a Temporary Recycled Water Use Permit will be issued, for up to 120 days, to allow the site to receive recycled water while a proposed Site Supervisor is being certified.

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D. Temporary Use of Potable Water. At the discretion of the General Manager, potable water may be made available on a temporary basis, until recycled water is available. Before the applicant receives temporary potable water, a water reclamation permit, as described in Section 26.05.C, must be obtained for new on-site distribution facilities. Prior to commencement of recycled water service, an inspection of the on-site facilities will be conducted to verify that the facilities have been maintained and are in compliance with the recycled water permit and current requirements for service. Upon verification of compliance, the applicant shall be notified of the corrective actions necessary and shall have at least thirty (30) days to take such actions prior to initiation of enforcement proceedings.

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- E. Recycled Water Rate. The rate charged for recycled water shall be established by Ordinance of the Board of Directors.

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26.06 REGULATION OF WASTE DISCHARGE TO SEWERAGE SYSTEMS

- A. Intent. The District recognizes that to maintain adequate wastewater quality for water reclamation treatment processes, and to protect public and private property, restrictions may be required on certain industrial, commercial and residential waste discharges to a sewerage system that is located within a designated tributary area of an existing or planned reclamation facility.
  
- B. Adopted Tributary Protection Measures. Waste discharges to the sewerage system from any industrial, commercial or residential source may be restricted or prohibited upon a finding, following a noticed public hearing, that the type or class of discharge involved is capable of causing or may cause substantial damage or harm to any sewage treatment or reclamation facility or to any significant user or users or potential user or users of recycled water within an area which has been planned for recycled water service. Prohibitions for certain discharges and guidelines for acceptability of wastes are set forth in District Code of Ordinances Sections 52.04, PROHIBITIONS AGAINST DISCHARGE OF OBJECTIONABLE WASTES, which prohibits discharge of certain items into the District sewer system, including, but not limited to, brine discharge from on-site self-regenerating water softener units; 52.05, GUIDELINES TO DETERMINE ACCEPTABILITY OF WASTES; and 52.06, DISCHARGE OF INDUSTRIAL WASTE.

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26.07 SANCTIONS

- A. Public Nuisance. Discharge of wastes or the use of recycled water in any manner in violation of this ordinance or of any permit issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the General Manager. Any person creating such a public nuisance is guilty of a misdemeanor.
  
- B. Injunction. Whenever a discharge of wastes or use of recycled water is in violation of this ordinance or otherwise causes or threatens to cause a public nuisance, the District may seek injunctive relief as may be appropriate to enjoin such discharge or use.

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C. Permit Suspension or Revocation. In addition to any other provision of this Code or state statute or rule authorizing termination of water service, the General Manager may suspend or revoke a permit issued hereunder if a violation of any provision of this ordinance or the Rules and Regulations for Recycled Water Use is found to exist or if a discharge of wastes or use of recycled water causes or threatens to cause a nuisance. If a permit is revoked, the General Manager may, at its discretion, issue the recycled water user a temporary recycled water permit for up to 120 days to allow service to continue while corrective measures are completed.

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D. Penalty. Any owner and/or operator who violates this ordinance shall, for each day of violation, or portion thereof, be subject to a fine not exceeding \$1,000, or other higher amount authorized by applicable law.

E. Other Remedies. In addition to any fine, revocation, suspension or penalty imposed under this Section 26 in connection with any violation of this Section, the District may take any or all the following actions: (i) suspend or terminate water and or sewer service to the property, the owner and/or the operator; (ii) require payment by the owner for any damage to the District facilities, reimbursement to District of costs and expenses, or fines imposed on the District in connection with such violation; or (iii) prosecute the responsible party under any applicable provision of this Code, the Water Code or the Penal Code.

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#### 26.08 VALIDITY

If any provision of this Section 26 or the application thereof to any person or circumstance is held invalid, the remainder of Section 26 and the application of such provisions to other persons or circumstances shall not be affected thereby.